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THE
ACTS
OF THE LEGISLATURE
IN FORCE IN THE
PRESIDENCY OF BOMBAY,

EDITED,
WITH OCCASIONAL NOTES, CROSS-REFERENCES
AND AN INDEX,

BY
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FOR THE CORRECTION OF VOLUMES I. TO X.

List of Regulations and Acts in force in the Bombay Presidency which have been repealed, wholly or in part, or amended by Enactments contained in this Volume.

Year.	Regulation or Act.	Extent of repeal, &c.	By what Act repealed, &c.
1827	Reg. No. XII.	Clauses 1, 6, 7 and 8 of section 19	IV. of 1890 (Bom.)
"	" XXII.....	Section 3, cl. 1, and the first 27 words of cl. 2, section 7 and section 32	VIII. of 1887.
"	" "	The whole except sections 40, 41, 42 and 43 ...	XIII. of 1889.
1841	Act No. XI.....	The whole	VIII. of 1887.
1842	" XII.	Do.	
1851	" VIII.	Section 2 amended.....	VIII. of 1888.
1852	" XXXIII..	The whole	VIII. of 1887.
1853	" XVIII. ...	Do.	XIII. of 1889.
1854	" IV.	Do.	
1856	" XIII.	Sections 56, 57, 58, 60, 61, 62, 63, 65 and 66 ...	IV. of 1887 (Bom.)
1858	" XXXVI..	Sections 17A and 17B added, section 11 repealed.	XIII. of 1889.
1859	" III.	The whole	VIII. of 1887.
"	" XV.	Do.	V. of 1888.
1860	" XXVII ...	Do.	VII. of 1889.
"	" XLV.....	Section 138A added	XIV. of 1887.
"	" "	Section 28 amended	I. of 1889.
"	" "	Sections substituted for sections 478 to 489	IV. of 1889.
"	" "	Part of section 193.....	XIII. of 1889.
"	" "	Sections 194 and 195 amended	IX. of 1890.
"	" XLVIII..	Section 15.....	IV. of 1887 (Bom.)
"	" "	Section 17 and section 19, cl. 16.....	III. of 1888 (Bom.)
1861	" IX.....	The whole	VIII. of 1890.
1863	" VI. (Bom.)	Certain words in section 7	III. of 1888 (Bom.)
"	" "	Section 34 added to	V. of 1887 (Bom.)
1864	" XVII. ...	Amended generally	II. of 1890.
"	" XX.	The whole	VIII. of 1890.
1865	" III.....	Section 7 (so far as it relates to railways) and section 10	IX. of 1890.
"	" X.	Section 326A added	II. of 1890.
"	" "	Amended generally	VI. of 1889.
"	" XI.....	The whole	IX. of 1887.
1866	" III. (Bom.)	Do.	IV. of 1887 (Bom.)
1867	" VII.	Do.	XVI. of 1888.
"	" XXV.	Amended generally	X. of 1890.
"	" III. (Bom.)	The whole	XIII. of 1889.
"	" VII. "	The whole except sections 33 and 34	IV. of 1890 (Bom.)
1868	" I.....	Section 3 (1) amended	I. of 1887.
"	" XII.	The whole	VIII. of 1887.
"	" XIV.....	Do.	IX. of 1888.
"	" XXVI. ...	Do.	IX. of 1888.
1869	" V.	Part III., cl. (c) and part of Part I., cl. (f)	XIII. of 1889.
"	" XIV.....	The last para. of section 16	{ VII. of 1889. { VIII. of 1890.

TABLE FOR THE CORRECTION OF VOLUMES I. TO X.

Year.	Regulation or Act.	Extent of repeal, &c.	By what Act repealed, &c.
1870	Act. No. VII.	Schedule I. amended.....	VII. of 1889.
"	" "	Schedule II. amended.....	VI. of 1889.
"	" "	Section 19, cl. IV., and part of Schedule II. Art. I., cl. (a).....	XIII. of 1889.
"	" "	Section 19 H and Schedule I., Art. 10	VIII. of 1890.
"	" III. (Bom.)	The whole	III. of 1888 (Bom.)
1871	" IV.	Section substituted for section 3.....	V. of 1889.
1872	" I.	Section substituted for section 125.....	III. of 1887.
"	" XIII.	The whole	V. of 1888.
"	" III. (Bom.)	Do.	III. of 1888 (Bom.)
1873	" V. (Bom.)	Do.	III. of 1887 (Bom.)
"	" VII. "	Do.	II. of 1890 (Bom.)
1874	" II.	Amended	II. of 1890.
"	" III.	The last 16 words of section 8	VI. of 1888.
"	" XV.	Section 8, clauses (e) and (h) and parts of Schedules I. and II.	VIII. of 1887.
"	" "	Part of Schedule I.	IX. of 1887.
"	" "	So much as relates to Act XXVII. of 1860	VII. of 1889.
"	" "	Part of Schedule II	XIII. of 1889.
"	" II. (Bom.)	Section 19 substituted, section 22A added, section 41 partly repealed.....	I. of 1887 (Bom.)
1875	" IX.	Section 3 amended.....	VIII. of 1890.
"	" XII.	The whole	X. of 1889.
1876	" VIII.	Do.	X. of 1887.
1877	" III.	Part of section 9.....	XIII. of 1889.
"	" "	Section 17 amended	VII. of 1888.
"	" XV.	Schedule II. amended	{ IX. of 1887.
"	" "	"	{ VII. of 1888.
1878	" VII.	Amended	V. of 1890.
"	" VIII.	Sections 144, 146, 148 and 151 amended	II. of 1887.
"	" "	Sections 18 and 19 amended.....	IV. of 1889.
"	" "	Sections 37 and 115 amended	VIII. of 1889.
"	" IV. (Bom.)	The whole	III. of 1888 (Bom.)
"	" VI. "	Do.	III. of 1888 (Bom.)
1879	" I.	Section 3 (15) repealed and Art. 49 of Schedule I. substituted	I. of 1888.
"	" "	Art. 48 of Schedule I.....	V. of 1888.
"	" "	Schedule I. amended	VI. of 1889.
"	" IV.	The whole	IX. of 1890.
"	" V. (Bom.)	Amended locally.....	VI. of 1888 (Bom.)
1880	" III.	Section 8	VIII. of 1887.
"	" "	The whole	XIII. of 1889.
"	" VII.	Part of section 72	X. of 1889.
"	" VIII.	The whole	X. of 1888.
"	" II. (Bom.)	Do.	III. of 1888 (Bom.)
1881	" V.	Amended	VI. of 1889.
"	" "	Sections 151 and 153	VII. of 1889.
"	" "	Section 145A added	II. of 1890.
"	" X.	Preamble substituted, sections 2, 3 and 4 repealed	V. of 1889.
"	" II. (Bom.)	The whole	III. of 1888 (Bom.)
"	" IV. (Bom.)	Sections 2, 3, 6 and 8 amended	II. of 1888 (Bom.)
1882	" X.	Section 98 amended	I. of 1889.
"	" "	Section 1 (b)	XIII. of 1889.
"	" "	Section 1 (e)	V. of 1889.
"	" XI.	Section 10 added, Schedules I. and II. amended.....	VIII. of 1889.
"	" "	Additions made to Schedule II.	II. of 1888.
"	" "	Schedule II. amended	XII. of 1890.

TABLE FOR THE CORRECTION OF VOLUMES I. TO X.

Year.	Regulation or Act.	Extent of repeal, &c.	By what Act repealed, &c.
1882	Act. No. XIV.....	Section 6 (a), certain words in section 468 and section 469.	XIII. of 1889.
"	" "	Chapter XXXI. amended ..	VIII. of 1890.
"	" "	Section 589 amended and Schedule II. substituted.....	X. of 1888.
"	" XV.....	Section 23 amended	X. of 1888.
"	" XVII.....	The whole	X. of 1889.
"	" XX.....	Section 19 amended	XV. of 1890.
"	" V. (Bom.)	The whole	II. of 1890 (Bom.)
1883	" IV.....	Do.	IX. of 1890.
"	" V.....	Section 31	X. of 1889.
"	" XI.....	The whole	X. of 1889.
"	" XXI.....	Amended generally	XVIII of 1890.
1884	" IV.....	Section 3	X. of 1889.
"	" VI.....	Amended generally.....	III. of 1890.
"	" VII.	Do.	" "
1885	" V.	The whole	X. of 1889.
"	" XIII.....	Section 34 added	XI. of 1888.
1886	" VI.....	Section 32 amended and 35A added	XVI. of 1890.
"	" XI.....	Section 49.....	IX. of 1890.
"	" XII.	Schedule amended	XIV. of 1890.

ABBREVIATIONS.

B. H. C.....	Bombay High Court.
Cr. Rg.	Criminal Rulings of the Bombay High Court.
G. G.	Bombay Government Gazette, Part. I.
G. R.	Bombay Government Resolution.
H. C. Civ. Circ.	Bombay High Court, Civil Circulars.
I. L. R.	Indian Law Reports.
L. J. R. (N. S). M. C.	Law Journal Reports, New Series, Magistrates' Cases.
P. J.	Printed Judgments of the Bombay High Court.

Act No. I. of 1887.

2 E/97.1.2.1.3d.

RECEIVED THE ASSENT OF THE GOVERNOR GENERAL ON THE
14TH JANUARY, 1887.

An Act for further shortening the language used in Acts of the Governor General in Council, and for other purposes.

WHEREAS it is expedient further to shorten the language used in Acts made by the Governor General in Council, and to make certain further provisions relating to those Acts and to Regulations under the Statute 33 Victoria, chapter 3, section 1; It is hereby enacted as follows:—

- Title and commencement. 1. (1) This Act may be called the General Clauses Act, 1887; and
(2) It shall come into force at once.

PART I.

ADDITIONAL CLAUSES.

2. This Part shall apply to this Act and to all Acts made by the Governor General in Council under the Indian Councils Act, 1861, after the passing of this Act.
- Application of this Part.

3. In any Act to which this Part applies, unless there is something repugnant in the subject or context,—
- Definitions.

(1) “abet,” with its grammatical variations and cognate expressions, shall have the same meaning as in the Indian Penal Code:

(2) “Chapter,” “Part” and “schedule” shall denote, respectively, a Chapter and Part of, and schedule to, the Act in which the word occurs:

(3) “sub-section” shall denote a sub-section of the section in which the word occurs:

(4) “commencement,” used with reference to an Act, shall mean the day on which the Act comes into force:

(5) “financial year” shall mean the year commencing on the first day of April:

(6) “local authority” shall mean a municipal committee, district board, body of port commissioners or other authority legally entitled to, or entrusted by the Government with, the control or management of a municipal or local fund:

(7) "ship" shall include every description of vessel used in navigation not exclusively propelled by oars:

(8) "master," used with reference to a ship, shall mean any person (except a pilot or harbour-master) having for the time being control or charge of the ship:

(9) "offence" shall mean any act or omission made punishable by any law for the time being in force:

(10) "public nuisance" shall have the meaning assigned to that expression in section 268 of the Indian Penal Code:

(11) "registered" shall mean registered under the law for the time being in force for the registration of documents:

(12) "sign," with its grammatical variations and cognate expressions, shall, with reference to a person who is unable to write his name, include "mark," with its grammatical variations and cognate expressions:

(13) "value," used with reference to a suit, shall mean the amount or value of the subject-matter of the suit: and

(14) "write," with its grammatical variations and cognate expressions, shall include "print" and "lithograph," with their grammatical variations and cognate expressions.

4. Where, by an Act to which this Part applies and which is not to come into force immediately on the passing thereof, a power is conferred on the Governor General in Council or on a Local Government or a High Court to make rules, or to issue orders with respect to the application of the Act, or with respect to the establishment of any Court or office or the appointment of any Judge or officer thereunder, or with respect to the person by whom, or the time when, or the place where, or the manner in which, or the fees for which, anything is to be done under the Act, the power may be exercised at any time after the passing of the Act, but rules or orders so made or issued shall not take effect till the commencement of the Act.

5. Any power conferred on the Governor General in Council or on a Local Government by an Act to which this Part applies may be exercised from time to time as occasion requires.

6. Where, by an Act to which this Part applies, a power to make rules is expressed to be given subject to the condition of the rules being made after previous publication, the following provisions shall apply, namely:—

(1) The authority having power to make the rules shall, before making them, publish a draft of the proposed rules for the information of persons likely to be affected thereby.

(2) The publication shall be made in such manner as that authority deems to be sufficient, or, if the condition with respect to previous publication so requires, in such manner as the Governor General in Council or the Local Government prescribes.

(3) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(4) The authority having power to make the rules, and, where the rules are to be made with the sanction, approval or concurrence of another authority, that authority also, shall consider any objection or suggestion which may be received by the authority having power to make the rules from any person with respect to the draft before the date so specified.

(5) The publication in an official Gazette of a rule purporting to have been made in exercise of a power to make rules after previous publication shall be conclusive proof that the rule has been duly made.

7. (1) Where a limited time from any date or from the happening of any event is appointed or allowed, by an Act to which this Part applies, for the doing of any act or the taking of any proceeding in a Court or office, and the last day of the limited time is a day on which the Court or office is closed, then the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the Court or office is open.

(2) Where, by an Act to which this Part applies, any act or proceeding is directed or allowed to be done or taken in a Court or office on a certain day, then, if the Court or office is closed on that day, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the Court or office is open.

(3) This section does not apply to any act or proceeding to which the Indian Limitation Act, 1877, applies.

8. Where an act or omission constitutes an offence under two or more enactments of which either or any is an Act to which this Part applies, the offender shall be liable to be prosecuted and punished under either or any of those enactments, but shall not be liable to be punished twice for the same offence.

PART II.

SUPPLEMENTAL PROVISIONS.

9. The words "wholly or partially" shall be inserted before the word "repealed" in clause (1) of section 3 of the General Clauses Act, 1868, and shall be deemed to have been there from the commencement of that Act.

1887. A 1 § 10—A 2 § 3

10. The provisions of this Act and of the General Clauses Act, 1868, shall, so far as they can be made applicable, apply to all Regulations which may receive the assent of the Governor General under the Statute 33 Victoria, chapter 3, section 1, after the commencement of this Act.

Act No. II. of 1887.

RECEIVED THE ASSENT OF THE GOVERNOR GENERAL ON THE
14TH JANUARY, 1887.

An Act to amend the Sea Customs Act, 1878, the Excise Act, 1881, and the Indian Tariff Act, 1882.

WHEREAS it is expedient to amend the Sea Customs Act, 1878, the Excise Act, 1881, and the Indian Tariff Act, 1882;

It is hereby enacted as follows:—

Sea Customs Act, 1878.

1. (1) In clause (b) of the second paragraph of section 144 of the Sea Customs Act, 1878, there shall be inserted after the word “unless” the word “either” and after the word “destination” the following, namely:—

“or the delivery of the spirit into a warehouse appointed in this behalf by the Local Government having authority at that port”.

(2) In the third paragraph of the same section of the same Act the following shall be substituted for the word “paid,” namely:—

“so paid or the spirit so delivered”.

2. In section 146 of the same Act, for the word “shall” in each of the two places where that word occurs, the word “may” shall be substituted.

3. (1) To section 148 of the same Act the following words shall be prefixed, namely:—

“Notwithstanding anything in the Indian Tariff Act, 1882,”.

(2) To the same section of the same Act the following shall be added, namely:—

“Provided that the Local Government may authorise the import of such spirit without the payment of that duty at the port of importation when the spirit is to be delivered into a warehouse appointed by the Local Government in this behalf, and the excise-duty thereon is to be paid on the removal of the spirit from a warehouse so appointed.

Act No. II.—As the Excise Act, XXII. of 1881, is not in force in the Bombay Presidency, Sections 5 and 6 of this Act, which relate thereto, are omitted.

Amendment of section 151.

4. (1) To section 151 of the same Act the following words shall be prefixed, namely :—

“Notwithstanding anything in the Indian Tariff Act, 1882,”.

(2) After the same section of the same Act the following shall be added, namely :—

“Provided that the Local Government may authorise the import of such spirit without the payment of the differential duty at the port of importation when the spirit is to be delivered into a warehouse appointed by the Local Government in this behalf, and the differential duty is to be paid on the removal of the spirit from a warehouse so appointed.”

Indian Tariff Act, 1882.

7. ~~In the preamble to the Indian Tariff Act, 1882, the words “and for~~ ^{XII/9/520}
 Repeal of portion of preamble. ~~fixing a maximum duty of excise on spirit~~ ^{Sch. I P. 2}
~~manufactured in British India” are repealed.~~

8. To section 7 of the same Act the fol- ^{XIII/44520}
 Addition to section 7. ~~lowing shall be added, namely :—~~ ^{Sch. I P. 2}

“Nothing in this section applies to spirit which is exported under bond for excise-duty from one customs-port to another customs-port under the provisions of Chapter XIV. of the Sea Customs Act, 1858.”

9. In No. 2 of the Second Schedule to
 Amendment of Second Schedule. the same Act—

(a) “Rs. 5” shall be substituted for “Rs. 4” in the fifth column as the rate of duty to be levied and collected per Imperial Gallon or six quart bottles of Liqueurs”; and

(b) for the following, namely :—

No.	Names of Articles.	Per	Tariff valuation.	Rate of duty.
*	*	*	*	*
	Spirit when so used in a proportion of twenty per cent. and upwards.	Impl. Gallon or six quart bottles of the strength of London proof.	...	Rs. 4, and the duty to be increased in proportion as the strength of the spirit exceeds London proof.
	Spirit, perfumed, in wood, or in bottles containing more than four ounces.	Ditto ... ..	...
	Spirit, other sorts ...	Ditto ... ..	...

there shall be substituted the following, namely:—

No.	Names of Articles.	Per	Tariff valuation.	Rate of duty.
*	*	*	*	*
	Spirit when so used in a proportion of twenty per cent. and upwards.	Impl. Gallon or six quart bottles of the strength of London proof.	...	Rs. 5, and the duty to be increased or reduced in proportion as the strength of the spirit exceeds or is less than London proof.
	Spirit, perfumed, in wood or in bottles.	Impl. Gallon or six quart bottles.	...	Rs. 7-8-0.
	Spirit, other sorts ...	Impl. Gallon or six quart bottles of the strength of London proof.	...	Rs. 5, and the duty to be increased or reduced in proportion as the strength of the spirit exceeds or is less than London proof.

Act No. III. of 1887.

RECEIVED THE ASSENT OF THE GOVERNOR GENERAL ON THE
14TH JANUARY, 1887.

An Act to amend the Indian Evidence Act, 1872.

WHEREAS it is expedient that Revenue-officers should not be compelled to say whence they obtain information with respect to offences against the public revenue; It is hereby enacted as follows:—

New section substituted for section 125 of the Evidence Act. 1. The following section shall be substituted for section 125 of the Indian Evidence Act, 1872, namely:—

“125. No Magistrate or Police-officer shall be compelled to say whence he got any information as to the commission of any offence, and no Revenue-officer shall be compelled to say whence he got any information as to the commission of any offence against the public revenue.

“*Explanation.*—‘Revenue-officer’ in this section means any officer employed in or about the business of any branch of the public revenue.”

Act No. IV. of 1887. (*Calcutta.*)

Act. No. V. of 1887.

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RECEIVED THE ASSENT OF THE GOVERNOR GENERAL ON THE
28TH JANUARY, 1887.

sch 1.

An Act to amend the Code of Criminal Procedure, 1882.

WHEREAS it is expedient to amend the Code of Criminal Procedure, 1882 ;
It is hereby enacted as follows :—

1. In the definition of “Officer in charge of a Police-station” in section
Amendment of section 4. 4, clause (o), of the said Code there shall be substituted for the word “therefrom” the words
“from the station-house”, and for the words “present at the Police-station”
the words “present at the station-house”.

2. In section 312 of the said Code the
Amendment of section 312. word “four” shall be substituted for the word
“two”.

Act No. VI. of 1887.

RECEIVED THE ASSENT OF THE GOVERNOR GENERAL ON THE
11TH FEBRUARY, 1887.

An Act to amend the Indian Companies Act, 1882.

WHEREAS it is expedient to amend the Indian Companies Act, 1882, in
manner hereinafter appearing ; It is hereby enacted as follows :—

1. After section 200 of the Indian Companies Act, 1882, the following section shall be
Insertion of new section after section 200. inserted, namely :—

“200A. (1) In the distribution of the assets of any company being
Priority of debts. wound up under this Act, there shall be paid in
priority to all other debts—

“(a) all revenue, taxes, cesses and rates, whether payable to Her
Majesty or to a local authority, due from the company at the
date of the commencement of the winding-up, and having
become due and payable within the twelve months next before
that date ;

“(b) all wages or salary of any clerk or servant in respect of services
rendered to the company within the two months next before
the commencement of the winding-up, not exceeding one
thousand rupees for each clerk or servant ; and

“(c) all wages of any labourer or workman, not exceeding five
hundred rupees for each, whether payable for time or piece-
work, in respect of services rendered to the company within
the two months next before the commencement of the
winding-up.

“(2) The foregoing debts shall rank equally among themselves, and shall be paid in full, unless the assets of the company are insufficient to meet them, in which case they shall abate in equal proportions among themselves.

“(3) Subject to the retention of such sums as may be necessary for the cost of administration or otherwise, the liquidator or official liquidator shall discharge the foregoing debts forthwith, so far as the assets of the company are and will be sufficient to meet them, as and when the assets come into the hands of the liquidator or official liquidator.”

Act No. VII. of 1887.

RECEIVED THE ASSENT OF THE GOVERNOR GENERAL ON THE
11TH FEBRUARY, 1887.

An Act to prescribe the mode of valuing certain suits for the purpose of determining the jurisdiction of Courts with respect thereto.

WHEREAS it is expedient to prescribe the mode of valuing certain suits for the purpose of determining the jurisdiction of Courts with respect thereto; It is hereby enacted as follows :—

Title.	1. This Act may be called the Suits Valuation Act, 1887.
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PART I.

SUITS RELATING TO LAND.

2. This Part shall extend to such local areas, and come into force there- in on such dates, as the Governor General in Council, by notification in the <i>Gazette of India</i> , directs.	Extent and commencement of Part I.
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3. (1) The Local Government may, with the previous sanction of the Governor General in Council, make rules for determining the value of land for purposes of jurisdiction in the suits mentioned in the Court-fees Act, 1870, section 7, paragraphs v. and vi., and paragraph x., clause (d).	Power for Local Government to make rules determining value of land for jurisdictional purposes.
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(2) The rules may determine the value of any class of land, or of any interest in land, in the whole or any part of a local area, and may prescribe different values for different places within the same local area.

4. Where a suit mentioned in the Court-fees Act, 1870, section 7, paragraph iv., or Schedule II., article 17, relates to land or an interest in land of which the value has been determined by rules under the last foregoing section, the amount at which for purposes of jurisdiction the	Valuation of relief in certain suits relating to land not to exceed the value of the land.
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relief sought in the suit is valued shall not exceed the value of the land or interest as determined by those rules.

5. (1) The Local Government shall, before making rules under section 3, consult the High Court with respect thereto.

(2) A rule under that section shall not take effect till the expiration of one month after the rule has been published in the local official Gazette.

6. (*Repeals section 14 of Act III. of 1873.*)

PART II.

OTHER SUITS.

Extent and commencement of Part II.

7. This Part extends to the whole of British India, and shall come into force on the first day of July, 1887.

8. Where in suits other than those referred to in the Court-fees Act, 1870, section 7, paragraphs v., vi. and ix., and paragraph x., clause (d), court-fees are payable *ad valorem* under the Court-fees Act, 1870, the value as determinable for the computation of court-fees and the value for purposes of jurisdiction shall be the same.

9. When the subject-matter of suits of any class, other than suits mentioned in the Court-fees Act, 1870, section 7, paragraphs v. and vi., and paragraph x., clause (d), is such that in the opinion of the High Court it does not admit of being satisfactorily valued, the High Court may, with the previous sanction of the Local Government, direct that suits of that class shall, for the purposes of the Court-fees Act, 1870, and of this Act and any other enactment for the time being in force, be treated as if their subject-matter were of such value as the High Court thinks fit to specify in this behalf.

10. (*Repeals section 32 of Act XVIII. of 1884.*)

PART III.

SUPPLEMENTAL PROVISIONS.

11. (1) Notwithstanding anything in section 578 of the Code of Civil Procedure, an objection that by reason of the over-valuation or under-valuation of a suit or appeal a Court of first instance or lower appellate Court which had not jurisdiction with respect to the suit or appeal exercised jurisdiction with respect thereto shall not be entertained by an appellate Court unless—

(a) the objection was taken in the Court of first instance at or before the hearing at which issues were first framed and

recorded, or in the lower appellate Court in the memorandum of appeal to that Court, or

- (b) the appellate Court is satisfied, for reasons to be recorded by it in writing, that the suit or appeal was over-valued or under-valued, and that the over-valuation or under-valuation thereof has prejudicially affected the disposal of the suit or appeal on its merits.

(2) If the objection was taken in the manner mentioned in clause (a) of sub-section (1), but the appellate Court is not satisfied as to both the matters mentioned in clause (b) of that sub-section and has before it the materials necessary for the determination of the other grounds of appeal to itself, it shall dispose of the appeal as if there had been no defect of jurisdiction in the Court of first instance or lower appellate Court.

(3) If the objection was taken in that manner and the appellate Court is satisfied as to both those matters and has not those materials before it, it shall proceed to deal with the appeal under the rules applicable to the Court with respect to the hearing of appeals: but, if it remands the suit or appeal, or frames and refers issues for trial, or requires additional evidence to be taken, it shall direct its order to a Court competent to entertain the suit or appeal.

(4) The provisions of this section with respect to an appellate Court shall, so far as they can be made applicable, apply to a Court exercising revisional jurisdiction under section 622 of the Code of Civil Procedure or other enactment for the time being in force.

(5) This section extends to the whole of British India, and shall come into force on the first day of July, 1887.

12. Nothing in Part I. or Part II. shall be construed to affect the jurisdiction of any Court—

Proceedings pending at commencement of Part I. or Part II.

- (a) with respect to any suit instituted before rules under Part I. applicable to the valuation of the suit take effect, or Part II. has come into force, as the case may be, or
- (b) with respect to any appeal arising out of any such suit.

Act No. VIII. of 1887.

RECEIVED THE ASSENT OF THE GOVERNOR GENERAL ON THE
11TH FEBRUARY, 1887.

An Act to abolish Military Courts of Requests as established by Indian Military Law.

WHEREAS it is expedient to repeal that portion of the Indian Military Law which relates to Military Courts of Requests and other military tribunals

Act VIII. is extended to the Hyderabad Assigned Districts and to the Cantonments of Deesa and Secunderabad. G. G. 1888, pp. 1009, 1010.

having jurisdiction with respect to actions of a civil nature ; It is hereby enacted as follows :—

Commencement. 1. This Act shall come into force on the first day of April, 1887.

Repeal. 2. The enactments mentioned in the schedule are hereby repealed to the extent specified in the third column thereof.

THE SCHEDULE (a).

ENACTMENTS REPEALED.

Number and year.	Subject or title.	Extent of repeal.
1	2	3
<i>Acts of the Governor General in Council.</i>		
Act XI. of 1841 ...	Military Courts of Requests for Native Officers and Soldiers.	So far as it has not been repealed.
Act XII. of 1842 ...	Regulation of Military Bázars and Liabilities of Camp-followers.	So far as it has not been repealed.
Act XXXIII. of 1852.	Enforcement of judgments in places beyond the jurisdiction of the Courts pronouncing the same.	So far as it has not been repealed.
Act III. of 1859 ...	Conferment of Civil Jurisdiction in certain cases on Cantonment Joint Magistrates.	So far as it has not been repealed.
Act XII. of 1868 ...	Suspension of operation of section 17, Act XI., 1841.	The whole.
Act XV. of 1874 ...	Laws Local Extent Act, 1874.	Clauses (e) and (h) of section 8 ; so much of the first schedule as relates to Acts XI. of 1842, XII. of 1842, XXXIII. of 1852 and III. of 1859 ; and so much of the second schedule as relates to Act XIV. of 1855.
Act III. of 1880 ...	Cantonments ...	Section 8.
Act XIV. of 1882 ...	Code of Civil Procedure ...	Clause (b) of section 6.
<i>Bombay Regulation.</i>		
XXII. of 1827 ...	Military Authority ...	The following portions so far as they have not been repealed, namely :— (a) the first clause of section 3 ; (b) the first twenty-seven words of the second clause of that section ; (c) section 7 ; and (d) section 32.

Sch. (a).—A Madras Act and a Bengal Regulation repealed are omitted.

Act No. IX. of 1887.

RECEIVED THE ASSENT OF THE GOVERNOR GENERAL ON THE
24TH FEBRUARY, 1887.

THE PROVINCIAL SMALL CAUSE COURTS ACT, 1887.

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THE FIRST SCHEDULE.—ENACTMENTS
REPEALED.

THE SECOND SCHEDULE.—SUITS EX-
CEPTED FROM THE COGNIZANCE OF
A COURT OF SMALL CAUSES.

An Act to consolidate and amend the law relating to Courts of Small Causes established beyond the Presidency-towns.

WHEREAS it is expedient to consolidate and amend the law relating to Courts of Small Causes established beyond the local limits for the time being of the ordinary original civil jurisdiction of the High Courts of Judicature at Fort William in Bengal and at Madras and Bombay; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Title, extent and commencement.

1. (1) This Act may be called the Provincial Small Cause Courts Act, 1887.
- (2) It extends to the whole of British India; and
- (3) It shall come into force on the first day of July, 1887.

Repeal.

2. ~~(1) The enactments specified in the first schedule are repealed to the extent mentioned in the third column thereof.~~

120/11/24/1-41.

(2) But all Courts constituted, limits fixed, places appointed, appointments, declarations and rules made, jurisdiction and powers conferred, forms prescribed, directions given and notifications published under Act No. XI. of 1865 (*an Act to consolidate and amend the law relating to Courts of Small Causes beyond the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature*), or under any enactment repealed by that Act, shall, so far as may be, be deemed to have been respectively constituted, fixed, appointed, made, conferred, prescribed, given and published under this Act.

(3) Any enactment or document referring to Act No. XI. of 1865 or to any enactment thereby repealed shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

Savings.

3. Nothing in this Act shall be construed to affect—

- (a) any proceedings before or after decree in any suit instituted before the commencement of this Act; or
- (b) the jurisdiction of a Magistrate under any law for the time being in force with respect to debts or other claims of a civil nature, or of Village Munsifs or Village Pancháyats under the provisions of the Madras Code, or of Village Munsifs under the Dekkhan Agriculturists' Relief Act, 1879; or
- (c) any local law or any special law other than the Code of Civil Procedure.

4. In this Act, unless there is something repugnant in the subject or context, "Court of Small Causes" means a Court of Small Causes constituted under this

Definition.

Act, and includes any person exercising jurisdiction under this Act in any such Court.

CHAPTER II.

CONSTITUTION OF COURTS OF SMALL CAUSES.

5. (1) The Local Government, with the previous sanction of the Establishment of Courts of Governor General in Council, may, by order in writing, establish a Court of Small Causes at any place within the territories under its administration beyond the local limits for the time being of the ordinary original civil jurisdiction of a High Court of Judicature established in a Presidency-town.

(2) The local limits of the jurisdiction of the Court of Small Causes shall be such as the Local Government may define, and the Court may be held at such place or places within those limits as the Local Government may appoint.

6. (1) When a Court of Small Causes has been established, the Local Government shall, by order in writing, appoint a Judge of the Court.

(2) The Judge may be the Judge of one Court of Small Causes or of two or more such Courts, as the Local Government directs.

7. (1) A Judge who is the Judge of two or more such Courts may, with the sanction of the District Court, fix the times at which he will sit in each of the Courts of which he is Judge.

(2) Notice of the times shall be published in such manner as the High Court from time to time directs.

8. (1) The Local Government, with the previous sanction of the Governor General in Council, may, by order in writing, appoint an Additional Judge of a Court of Small Causes or of two or more such Courts.

(2) The Additional Judge shall discharge such of the functions of the Judge of the Court or Courts as the Judge may assign to him, and in the discharge of those functions shall exercise the same powers as the Judge.

(3) The Judge may withdraw from the Additional Judge any business pending before him.

(4) When the Judge is absent, the Additional Judge may discharge all or any of the functions of the Judge.

9. A Judge or Additional Judge of a Court of Small Causes may be suspended or removed from office by the Local Government.

10. The Local Government, after consultation with the High Court, may, by order in writing, direct that two Judges of Courts of Small Causes, or a Judge and an Additional Judge of a Court of Small Causes, shall sit together for the trial of such class or classes of suits or applications cognizable by a Court of Small Causes as may be described in the order.

11. (1) If two Judges, or a Judge and an Additional Judge, sitting together under the last foregoing section, differ as to a question of law or usage having the force of law, or in construing a document the construction of which may affect the merits, they shall draw up and refer, for the decision of the High Court, a statement of the facts of the case and of the point on which they differ in opinion, and the provisions of Chapter XLVI. of the Code of Civil Procedure shall apply to the reference.

(2) If they differ on any matter other than a matter specified in sub-section (1), the opinion of the Judge who is senior in respect of date of appointment as Judge of a Court of Small Causes, or, if one of them is an Additional Judge, then the opinion of the Judge sitting with him, shall prevail.

(3) For the purposes of sub-section (2), a Judge permanently appointed shall be deemed to be senior to an officiating Judge.

12. (1) The Local Government may appoint to a Court of Small Causes an officer to be called the Registrar of the Court.

(2) Where a Registrar is appointed, he shall be the chief ministerial officer of the Court.

(3) The Local Government may, by order in writing, confer upon a Registrar, within the local limits of the jurisdiction of the Court, the jurisdiction of a Judge of a Court of Small Causes for the trial of suits of which the value does not exceed twenty rupees.

(4) The Registrar shall try such suits cognizable by him as the Judge may, by general or special order, direct.

(5) A Registrar may be suspended or removed from office by the Local Government.

13. Subject to any enactment for the time being in force and to any orders made by the Local Government in this behalf, the appointment, punishment and transfer of ministerial officers of a Civil Court of the lowest grade competent to try an original suit of the value of fivethousand rupees in that portion of the territories administered by the Local Government in which a Court of Small Causes is established shall, so far as it can be made ap-

S. 12.—As to the power of Registrars of Small Cause Courts to state cases, see S. 646 of Act. XIV. of 1882.

S. 13.—See S. 38 of Act XIV. of 1869.

plicable, apply to the appointment, punishment and transfer of ministerial officers of the Court of Small Causes other than the Registrar, if any, of that Court.

14. (1) The ministerial officers of a Court of Small Causes shall, in addition to any duties mentioned in this Act, or in any other enactment for the time being in force, as Duties of ministerial officers. duties which are or may be imposed on any of them, discharge such duties of a ministerial nature as the Judge directs.

(2) The High Court may make rules consistent with this Act, and with any other enactment for the time being in force, conferring and imposing on the ministerial officers of a Court of Small Causes such powers and duties as it thinks fit, and regulating the mode in which powers and duties so conferred and imposed are to be exercised and performed.

CHAPTER III.

JURISDICTION OF COURTS OF SMALL CAUSES.

15. (1) A Court of Small Causes shall not take cognizance of the suits specified in the second schedule as suits excepted from the cognizance of a Court of Small Causes. Cognizance of suits by Courts of Small Causes.

(2) Subject to the exceptions specified in that schedule and to the provisions of any enactment for the time being in force, all suits of a civil nature of which the value does not exceed five hundred rupees shall be cognizable by a Court of Small Causes.

(3) Subject as aforesaid, the Local Government may, by order in writing, direct that all suits of a civil nature of which the value does not exceed one thousand rupees shall be cognizable by a Court of Small Causes mentioned in the order.

16. Save as expressly provided by this Act or by any other enactment for the time being in force, a suit cognizable by a Court of Small Causes shall not be tried by any other Court having jurisdiction within the local limits of the jurisdiction of the Court of Small Causes by which the suit is triable. Exclusive jurisdiction of Courts of Small Causes.

CHAPTER IV.

PRACTICE AND PROCEDURE.

17. (1) The procedure prescribed in the chapters and sections of the Code of Civil Procedure specified in the second schedule to that Code, ~~as amended by this Act~~ (a), shall, so far as those chapters and sections are applicable, be the procedure followed in a Court of Small Causes in all suits cognizable by it and in all proceedings arising out of such suits: Application of the Code of Civil Procedure.

S. 15.—See the note to S. 1 of Act. XV. of 1882.

S. 17 (a).—Since the passing of this Act, a new schedule has been substituted by Act X. of 1888.

Provided that an applicant for an order to set aside a decree passed *ex parte* or for a review of judgment shall, at the time of presenting his application, either deposit in the Court the amount due from him under the decree or in pursuance of the judgment, or give security to the satisfaction of the Court for the performance of the decree or compliance with the judgment, as the Court may direct.

(2) Where a person has become liable as surety under the proviso to sub-section (1), the security may be realized in manner provided by section 253 of the Code of Civil Procedure.

18. (1) Suits cognizable by the Registrar under section 12, sub-sections Trial of suits by Registrar. (3) and (4), shall be tried by him, and decrees passed therein shall be executed by him, in like manner in all respects as the Judge might try the suits, and execute the decrees respectively.

(2) The Judge may transfer to his own file, or to that of the Additional Judge if an Additional Judge has been appointed, any suit or other proceeding pending on the file of the Registrar.

19. (1) When the Judge of a Court of Small Causes is absent, and an Admission, return and rejection of complaints by Registrar. Additional Judge has not been appointed or, having been appointed, is also absent, the Registrar may admit a plaint, or return or reject a plaint for any reason for which the Judge might return or reject it.

(2) The Judge may, of his own motion or on the application of a party, return or reject a plaint which has been admitted by the Registrar, or admit a plaint which has been returned or rejected by him :

Provided that, where a party applies for the return or rejection or the admission of a plaint under this sub-section, and his application is not made at the first sitting of the Judge after the day on which the Registrar admitted, or returned or rejected, the plaint, the Judge shall dismiss the application unless the applicant satisfies him that there was sufficient cause for not making the application at that sitting.

20. (1) If, before the date appointed for the hearing of a suit, the defendant or his agent duly authorised in that Passing of decrees by Registrar on confession. behalf appears before the Registrar and admits the plaintiff's claim, the Registrar may, if the Judge is absent, and an Additional Judge has not been appointed, or, having been appointed, is also absent, pass against the defendant, upon the admission, a decree which shall have the same effect as a decree passed by the Judge.

(2) Where a decree has been passed by the Registrar under sub-section (1), the Judge may grant an application for review of judgment, and re-hear the suit, on the same conditions, on the same grounds and in the same manner as if the decree had been passed by himself.

21. (1) If the Judge is absent, and an Additional Judge has not been appointed or, having been appointed, is also absent, the Registrar may, subject to any instructions which he may have received from the Judge or, with respect to decrees or orders made by an Additional Judge, from the Additional Judge, make any orders in respect of applications for the execution of decrees and orders made by the Court of which he is Registrar, or sent to that Court for execution, which the Judge might make under this Act.

(2) The Judge, in the case of any decree or order with respect to the execution of which the Registrar has made an order under sub-section (1), or the Additional Judge, in the case of any such decree or order which has been made by himself and with respect to which proceedings have not been taken by the Judge under this sub-section, may, of his own motion, or on application made by a party within fifteen days from the date of the order of the Registrar or of the execution of any process issued in pursuance of that order, reverse or modify the order.

(3) The period of fifteen days mentioned in sub-section (2) shall be computed in accordance with the provisions of the Indian Limitation Act, 1877, as though the application of the party were an application for review of judgment.

22. When the Judge of a Court of Small Causes is absent and an Additional Judge has not been appointed or, having been appointed, is also absent, the Registrar or other chief ministerial officer of the Court may exercise from time to time the power which the Court possesses of adjourning the hearing of any suit or other proceeding, and fix a day for the further hearing thereof.

23. (1) Notwithstanding anything in the foregoing portion of this Act, when the right of a plaintiff and the relief claimed by him in a Court of Small Causes depend upon the proof or disproof of a title to immoveable property or other title which such a Court cannot finally determine, the Court may at any stage of the proceedings return the plaint to be presented to a Court having jurisdiction to determine the title.

(2) When a Court returns a plaint under sub-section (1), it shall comply with the provisions of the second paragraph of section 57 of the Code of Civil Procedure and make such order with respect to costs as it deems just, and the Court shall, for the purposes of the Indian Limitation Act, 1877, be deemed to have been unable to entertain the suit by reason of a cause of a nature like to that of defect of jurisdiction.

24. Where an order specified in section 588, clause (29), of the Code of Civil Procedure is made by a Court of Small Causes, an appeal therefrom shall lie to the District Court.

25. The High Court, for the purpose of satisfying itself that a decree or order made in any case decided by a Court of Small Causes was according to law, may call for the case and pass such order with respect thereto as it thinks fit.
- Revision of decrees and orders of Courts of Small Causes.**
26. *(Repealed by S. 4 of Act X. of 1888)*^{S. 4.}
27. Save as provided by this Act a decree or order made under the foregoing provisions of this Act by a Court of Small Causes shall be final.
- Finality of decrees and orders.**

CHAPTER V.

SUPPLEMENTAL PROVISIONS.

28. (1) A Court of Small Causes shall be subject to the administrative control of the District Court, and to the superintendence of the High Court, and shall—
- Subordination of Courts of Small Causes.**
- (a) keep such registers, books and accounts as the High Court from time to time prescribes, and
 - (b) comply with such requisitions as may be made by the District Court, the High Court or the Local Government for records, returns and statements in such form and manner as the authority making the requisition directs.
- (2) The relation of the District Court to a Court of Small Causes, with respect to administrative control, shall be the same as that of the District Court to a Civil Court of the lowest grade competent to try an original suit of the value of five thousand rupees in that portion of the territories administered by the Local Government in which the Court of Small Causes is established.
29. A Court of Small Causes shall use a seal of such form and dimensions as are prescribed by the Local Government.
- Seal.**
30. The Local Government may, by order in writing, abolish a Court of Small Causes.
- Abolition of Courts of Small Causes.**
31. (1) Nothing in this Act shall be construed to prevent the Local Government from appointing a person who is a Judge or Additional Judge of a Court of Small Causes to be also a Judge of any other Civil Court or to be a Magistrate of any class or to hold any other public office.
- Saving of power to appoint Judge of Court of Small Causes to other office.**
- (2) When a Judge or Additional Judge is so appointed, the ministerial officers of his Court shall, subject to any rules which the Local Government

may make in this behalf, be deemed to be ministerial officers appointed to aid him in the discharge of the duties of the other office.

Application of Act to Courts invested with jurisdiction of Court of Small Causes.

32. (1) So much of Chapters III. and IV. as relates to—

- (a) the nature of the suits cognizable by Courts of Small Causes,
- (b) the exclusion of the jurisdiction of other Courts in those suits,
- (c) the practice and procedure of Courts of Small Causes,
- (d) appeal from certain orders of those Courts and revision of cases decided by them, and
- (e) the finality of their decrees and orders subject to such appeal and revision as are provided by this Act,

applies to Courts invested by or under any enactment for the time being in force with the jurisdiction of a Court of Small Causes so far as regards the exercise of that jurisdiction by those Courts.

(2) Nothing in sub-section (1) with respect to Courts invested with the jurisdiction of a Court of Small Causes applies to suits instituted or proceedings commenced in those Courts before the date on which they were invested with that jurisdiction.

33. A Court invested with the jurisdiction of a Court of Small Causes,

Application of Act and Code to Court so invested as to two Courts.

with respect to the exercise of that jurisdiction, and the same Court, with respect to the exercise of its jurisdiction in suits of a civil nature which are not cognizable by a Court of Small

Causes, shall, for the purposes of this Act and the Code of Civil Procedure, be deemed to be different Courts,

Modification of Code as so applied.

34. Notwithstanding anything in the last two foregoing sections,—

- (a) when, in exercise of the jurisdiction of a Court of Small Causes, a Court invested with that jurisdiction sends a decree for execution to itself as a Court having jurisdiction in suits of a civil nature which are not cognizable by a Court of Small Causes, or
- (b) when a Court, in the exercise of its jurisdiction in suits of a civil nature which are not cognizable by a Court of Small Causes, sends a decree for execution to itself as a Court invested with the jurisdiction of a Court of Small Causes,—

the documents mentioned in section 224 of the Code of Civil Procedure shall not be sent with the decree unless in any case the Court, by order in writing, requires them to be sent.

S. 32.—See S. 28 of Act XIV. of 1869.

The decision in a small cause is final though the Judge may have tried it as an ordinary suit according to the rules of the Civil Procedure Code. I. L. R., XII. Bom., 486.

35. (1) Where a Court of Small Causes, or a Court invested with the jurisdiction of a Court of Small Causes, has from any cause ceased to have jurisdiction in relation to the case, whether before or after decree, which, if the Court had not ceased to have jurisdiction, might have been had therein, may be had in the Court which, if the suit out of which the proceeding has arisen were about to be instituted, would have jurisdiction to try the suit.

(2) Nothing in this section applies to cases for which special provision is made in the Code of Civil Procedure, as extended to Courts of Small Causes, or in any other enactment for the time being in force.

Amendment of Indian Limitation Act.

36. In the third division of the second schedule to the Indian Limitation Act, 1877,—

(a) after No. 160 the following shall be inserted, namely :—

“160A. For a review of judgment by a Provincial Court of Small Causes, or by a Court invested with the jurisdiction of a Provincial Court of Small Causes when exercising that jurisdiction.	Ditto.	The date of the decree or order.”
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and (b) in No. 173, the words, figures and letter “No. 160A and” shall be inserted before the word and figures “No. 162.”

Publication of certain orders.

37. All orders required by this Act to be made in writing by the Local Government shall be published in the official Gazette.

THE FIRST SCHEDULE (a).

ENACTMENTS REPEALED.

(See section 2.)

Number and year.	Subject or title.	Extent of repeal.
1	2	3
Act XI. of 1865...	Mufassal Small Cause Courts Act.	So much as has not been repealed.
Act XV. of 1874	Laws Local Extent Act.	So much of the first schedule as relates to Acts XI. of 1865, and X. of 1867.

Sch. 1 (a).—The enactments, which are not in force in the Bombay Presidency, are omitted.

THE SECOND SCHEDULE.

SUITS EXCEPTED FROM THE COGNIZANCE OF A COURT OF SMALL CAUSES.

(See section 15).

- (1) A suit concerning an act or order purporting to be done or made by the Governor General in Council or a Local Government, or by the Governor General or a Governor, or by a Member of the Council of the Governor General or of the Governor of Madras or Bombay, in his official capacity, or concerning an act purporting to be done by any person by order of the Governor General in Council or a Local Government ;
- (2) a suit concerning an act purporting to be done by any person in pursuance of a judgment or order of a Court or of a judicial officer acting in the execution of his office ;
- (3) a suit concerning an act or order purporting to be done or made by any other officer of the Government in his official capacity, or by a Court of Wards, or by an officer of a Court of Wards in the execution of his office ;
- (4) a suit for the possession of immoveable property or for the recovery of an interest in such property ;
- (5) a suit for the partition of immoveable property ;
- (6) a suit by a mortgagee of immoveable property for the foreclosure of the mortgage or for the sale of the property, or by a mortgagor of immoveable property for the redemption of the mortgage ;
- (7) a suit for the assessment, enhancement, abatement or apportionment of the rent of immoveable property ;
- (8) a suit for the recovery of rent, other than house-rent, unless the Judge of the Court of Small Causes has been expressly invested by the Local Government with authority to exercise jurisdiction with respect thereto ;
- (9) a suit concerning the liability of land to be assessed to land-revenue ;
- (10) a suit to restrain waste ;
- (11) a suit for the determination or enforcement of any other right to or interest in immoveable property ;
- (12) a suit for the possession of a hereditary office or of an interest in such an office, including a suit to establish an exclusive or periodically recurring right to discharge the functions of an office ;
- (13) a suit to enforce payment of the allowance or fees respectively called *málúkána* and *hakk*, or of cesses or other dues when the cesses or dues are payable to a person by reason of his interest in immoveable property or in an hereditary office or in a shrine or other religious institution ;
- (14) a suit to recover from a person to whom compensation has been paid under the Land Acquisition Act, 1870, the whole or any part of the compensation ;
- (15) a suit for the specific performance or rescission of a contract ;
- (16) a suit for the rectification or cancellation of an instrument ;
- (17) a suit to obtain an injunction ;
- (18) a suit relating to a trust, including a suit to make good out of the general estate of a deceased trustee the loss occasioned by a breach of trust, and a suit by a co-trustee to enforce against the estate of a deceased trustee a claim for contribution ;
- (19) a suit for a declaratory decree, not being a suit instituted under section 283 or section 332 of the Code of Civil Procedure ;

Arts. (7) and (8).—A suit for the rent of homestead or bustoo land is not cognizable.
I. L. R., XV. Calc., 174.

- (20) a suit instituted under section 283 or section 332 of the Code of Civil Procedure ;
- (21) a suit to set aside an attachment by a Court or a revenue-authority, or a sale, mortgage, lease or other transfer by a Court or a revenue-authority or by a guardian ;
- (22) a suit for property which the plaintiff has conveyed while insane ;
- (23) a suit to alter or set aside a decision, decree or order of a Court or of a person acting in a judicial capacity ;
- (24) a suit to contest an award ;
- (25) a suit upon a foreign judgment as defined in the Code of Civil Procedure or upon a judgment obtained in British India ;
- (26) a suit to compel a refund of assets improperly distributed under section 295 of the Code of Civil Procedure ;
- (27) a suit under the Indian Succession Act, 1865, section 320 or section 321, or under the Probate and Administration Act, 1881, section 139 or section 140, to compel a refund by a person to whom an executor or administrator has paid a legacy or distributed assets ;
- (28) a suit for a legacy or for the whole or a share of a residue bequeathed by a testator, or for the whole or a share of the property of an intestate ;
- (29) a suit—
 - (a) for a dissolution of partnership or for the winding-up of the business of a partnership after its dissolution ;
 - (b) for an account of partnership-transactions ; or
 - (c) for a balance of partnership-account, unless the balance has been struck by the parties or their agents ;
- (30) a suit for an account of property and for its due administration under decree ;
- (31) any other suit for an account, including a suit by a mortgagor, after the mortgage has been satisfied, to recover surplus collections received by the mortgagee, and a suit for the profits of immoveable property belonging to the plaintiff which have been wrongfully received by the defendant ;
- (32) a suit for a general average loss or for salvage ;
- (33) a suit for compensation in respect of collision between ships ;
- (34) a suit on a policy of insurance or for the recovery of any premium paid under any such policy ;
- (35) a suit for compensation—
 - (a) for loss occasioned by the death of a person caused by actionable wrong ;
 - (b) for wrongful arrest, restraint or confinement ;
 - (c) for malicious prosecution ;
 - (d) for libel ;
 - (e) for slander ;
 - (f) for adultery or seduction ;
 - (g) for breach of contract of betrothal or promise of marriage ;
 - (h) for inducing a person to break a contract made with the plaintiff ;
 - (i) for obstruction of an easement or diversion of a watercourse ;

Art. (35) (g).—A suit for actual pecuniary damages for breach of contract of marriage comes within this clause. I. L. R., XV. Calc., 833.

- (j) for illegal, improper or excessive distress or attachment;
- (k) for improper arrest under Chapter XXXIV. of the Code of Civil Procedure, or in respect of the issue of an injunction wrongfully obtained under Chapter XXXV. of that Code; or
- (l) for injury to the person in any case not specified in the foregoing sub-clauses of this clause;
- (36) a suit by a Muhammadan for exigible (*mu'ajjal*) or deferred (*mu'wajjal*) dower;
- (37) a suit for the restitution of conjugal rights, for the recovery of a wife, for the custody of a minor, or for a divorce;
- (38) a suit relating to maintenance;
- (39) a suit for arrears of land-revenue, village-expenses or other sums payable to the representative of a village-community or to his heir or other successor in title;
- (40) a suit for profits payable by the representative of a village-community or by his heir or other successor in title after payment of land-revenue, village-expenses and other sums;
- (41) a suit for contribution by a sharer in joint property in respect of a payment made by him of money due from a co-sharer, or by a manager of joint property, or a member of an undivided family, in respect of a payment made by him on account of the property or family;
- (42) a suit by one of several joint mortgagors of immoveable property for contribution in respect of money paid by him for the redemption of the mortgaged property;
- (43) a suit against the Government to recover money paid under protest in satisfaction of a claim made by a revenue-authority on account of an arrear of land-revenue or of a demand recoverable as an arrear of land-revenue;
- (44) a suit the cognizance whereof by a Court of Small Causes is barred by any enactment for the time being in force.

See XIV/95 & 4

Act No. X. of 1887.

RECEIVED THE ASSENT OF THE GOVERNOR GENERAL ON THE
24TH FEBRUARY, 1887.

THE NATIVE PASSENGER SHIPS ACT, 1887.

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SCHEDULE—ENACTMENTS REPEALED.

*An Act to consolidate and amend the law relating to
Native Passengers Ships.*

WHEREAS it is expedient to consolidate and amend the law relating to Native Passenger Ships; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

- | | |
|-------------------------|---|
| Title. | 1. This Act may be called the Native Passenger Ships Act, 1887. |
| Extent and application. | 2. (1) It extends to the whole of British India, and applies— |
| | <ul style="list-style-type: none"> (a) to all subjects of Her Majesty within the dominions of Princes and States in India in alliance with Her Majesty; (b) to all native Indian subjects of Her Majesty without and beyond British India; and, (c) subject to the exceptions mentioned in sub-section (2), to ships carrying as passengers more than thirty natives of Asia or Africa. |
| | (2) But it does not apply— |
| | <ul style="list-style-type: none"> (i) to any ship-of-war, troopship, transport or other ship belonging to the Royal Navy or Her Majesty's Indian Marine Service, or (ii) to any other ship for the time being in the service of Her Majesty, or (iii) to any ship-of-war belonging to any Foreign Prince or State, or (iv) to any steam-ship not carrying as passengers more than sixty natives of Asia or Africa, or (v) to any ship not intended to carry natives of Asia or Africa as passengers to or from any port in British India. |
| | (3) Notwithstanding anything in sub-sections (1) and (2), the Local Government may, with the previous sanction of the Governor General in Council, declare all or any of the provisions of this Act to apply to sailing-ships, or any class of sailing-ships, carrying as passengers more than fifteen natives of Asia or Africa, and to steam-ships, or any class of steam-ships, carrying as passengers more than thirty such natives. |

3. This Act shall come into force on such day^(a) as the Governor General in Council, by notification in the Gazette of India, appoints.

Commencement.

4. (1) On and from that day the enactments mentioned in the schedule shall be repealed to the extent specified in the third column thereof.

Repeal.

(2) But all ports, places and officers appointed, rules, declarations and exemptions made, bonds executed, directions given and certificates granted under any of those enactments shall, so far as may be, be deemed to be respectively appointed, made, executed, given and granted under this Act; and

(3) Any enactment or document referring to any enactment hereby repealed shall be construed to refer to this Act or to the corresponding portion thereof.

Definitions.

5. In this Act, unless there is something repugnant in the subject or context,—

(1) “ship” means a ship to which this Act applies:

(2) “passenger” means a passenger by a ship who is a native of Asia or Africa of the age of twelve years or upwards and is not on the articles of the ship as one of the crew; but it does not include either a passenger in attendance on a person who is not a native of Asia or Africa, or a child under one year of age; and, in the computation of passengers for any of the purposes of this Act, two persons of the age of one year or upwards and under the age of twelve years shall be reckoned as one passenger:

(3) “long voyage” means, subject to the provisions of this Act, any voyage during which the ship performing it will in ordinary circumstances be one hundred and twenty hours or upwards continuously out of port:

(4) “short voyage” means, subject to the provisions of this Act, any voyage during which the ship performing it will not in ordinary circumstances be one hundred and twenty hours continuously out of port:

(5) “voyage,” when used without the prefix “long” or “short,” means the whole distance between the ship’s port or place of departure and her final port or place of arrival:

(6) “Chief Customs-officer” means the chief executive officer of sea-customs in any port or place to which this Act applies: and

(7) “Magistrate” means a person exercising powers not inferior to those of a Magistrate of the second class.

CHAPTER II.

RULES FOR ALL VOYAGES.

6. (1) A ship carrying passengers shall not depart or proceed from, or Ships to sail only from places discharge passengers at, any port or place appointed by the Government. within British India other than a port or place appointed in this behalf by the Local Government.

S. 3 (a).—June 1st, 1887, is the day appointed. G. G. 1887, p. 453.

(2) After a ship has departed or proceeded on a voyage from a port or place so appointed, a person shall not be received on board as a passenger except at some other port or place so appointed.

7. (1) The master, owner or agent of a ship so departing or proceeding shall give notice to an officer appointed in this behalf by the Local Government that the ship is to carry passengers, and of her destination, and of the proposed time of sailing.

(2) The notice shall be given not less than twenty-four hours before that time.

8. After receiving the notice, the officer aforesaid or a person authorized by him shall be at liberty at all times to enter on the ship and inspect her and her fittings and the provisions and stores in her.

9. (1) A ship intended to carry passengers shall not commence a voyage from a port or place appointed under this Act, unless the master holds two certificates to the effect mentioned in the two next following sections.

(2) The officer whose duty it is to grant a port-clearance for the ship shall not grant it unless the master holds those certificates.

10. The first of the certificates (hereinafter called "certificate A") shall state that the ship is seaworthy and properly equipped, fitted and ventilated, and the number of passengers which she is capable of carrying.

11. The second of the certificates (hereinafter called "certificate B") shall state—

- (a) the voyage which the ship is to make, and the intermediate ports, if any, at which she is to touch;
- (b) that she has the proper complement of officers and seamen;
- (c) that food, fuel and pure water over and above what is necessary for the crew, and the other things, if any, prescribed for the ship by the rules under this Act, have been placed on board, of the quality prescribed by the rules, properly packed, and sufficient to supply the passengers on board during the voyage which the ship is to make (including such detention in quarantine as may be probable) according to the scale for the time being prescribed by those rules;
- (d) that the master holds certificate A;
- (e) if the ship is to make a short voyage in a season of foul weather, and to carry upper-deck passengers, that she is furnished with

substantial bulwarks and a double awning or with other sufficient protection against the weather;

(f) if she is to carry passengers to any port in the Red Sea, that she is propelled principally by steam, and, if she is to carry more than one hundred passengers to any such port, that she has on board a medical officer licensed in accordance with the rules under this Act; and

(g) such other particulars, if any, as may be prescribed by those rules.

12. The person by whom certificate A and certificate B are to be granted shall be the officer appointed under section 7.

Grant of certificates.

Substitute for certificate A.

13. Where the master of a ship produces to that officer either of the following certificates, namely, —

- (a) a valid certificate granted by the Board of Trade or by a British Colonial Government, or
- (b) a certificate granted under the authority of a British Indian Government, on a date not more than one year before the proposed day of sailing, and in force and applicable to the voyage on which the ship is to proceed or the service on which she is about to be employed,

the officer may, if the particulars required by section 10 are certified thereby, take the certificate as evidence of those particulars, and it shall then be deemed to be a certificate A for the purposes of this Act.

14. (1) After receiving the notice required by section 7, the officer appointed under that section may, if he thinks fit, cause the ship to be surveyed at the expense

Survey of ship.
of the master or owner by competent surveyors, who shall report to him whether the ship is, in their opinion, seaworthy and properly equipped, fitted and ventilated for the voyage which she is to make:

Provided that he shall not cause a ship holding a certificate mentioned in section 13, clause (a) or clause (b), to be surveyed unless, by reason of the ship having met with damage or having undergone alterations, or on other reasonable ground, he considers it likely that she may be found unseaworthy or not properly equipped, fitted or ventilated for the voyage.

(2) If the officer causes a survey to be made of a ship holding any such certificate, and the surveyors report that the ship is seaworthy and properly equipped, fitted and ventilated for the voyage, and that there was no reasonable ground why the officer should have thought it likely that she would be found unseaworthy, or not properly equipped, fitted or ventilated for the voyage, the expense of the survey shall be paid by the Local Government.

15. (1) The officer authorized to grant a certificate under this Act in Discretion as to grant of respect of a ship shall not grant it unless he is satisfied that she has not on board any cargo likely from its quality, quantity or mode of stowage to prejudice the health or safety of the passengers.

(2) But save as aforesaid, and subject to the provisions of sub-section (3), it shall be in the discretion of the officer to grant or withhold the certificate.

(3) In the exercise of that discretion that officer shall be subject to the control of the Local Government, and of any intermediate authority which that Government appoints in this behalf.

16. The master or owner shall post up in a conspicuous part of the ship, Copy of certificates to be exhibited. so as to be visible to persons on board thereof, a copy of each of the certificates granted under this Act in respect of the ship, and shall keep those copies so posted up throughout the voyage.

17. If an officer appointed in this behalf by the Local Government is Supply by passengers of their own food. satisfied that a passenger has brought on board a ship for his own use food of the quality and in the quantity for the time being prescribed by the rules under this Act, the requirements of this Act respecting the supply of food for passengers shall not apply so far as regards the supply of food for that passenger.

CHAPTER III.

RULES FOR SHORT VOYAGES.

18. (1) For seasons of fair weather, a ship performing a short voyage shall, subject to the provisions of this Act, contain in the between-decks at least six superficial feet and thirty-six cubic feet of space available for every between-decks passenger, and on the upper-deck at least four superficial feet available for each such passenger and six superficial feet available for each upper-deck passenger.

(2) For seasons of foul weather, a ship propelled by sails and performing a short voyage shall, subject as aforesaid, contain in the between-decks at least twelve superficial feet and seventy-two cubic feet of space available for every between-decks passenger, and on the upper-deck at least four superficial feet available for each such passenger and twelve superficial feet available for each upper-deck passenger.

(3) For seasons of foul weather, a ship propelled by steam, or partly by steam and partly by sails, and performing a short voyage, shall, subject as aforesaid, contain in the between-decks at least nine superficial feet and fifty-four cubic feet of space available for every between-decks passenger,

and on the upper-deck at least four superficial feet available for each such passenger and nine superficial feet available for each upper-deck passenger.

(4) But in seasons of foul weather a ship shall not carry upper-deck passengers unless she is furnished with substantial bulwarks and a double awning or with other sufficient protection against the weather.

19. If a ship performing a short voyage takes additional passengers on board at an intermediate port or place, the master shall obtain from the officer appointed at that port or place under section 7 a supplementary certificate stating—

Ship taking additional passengers at intermediate place.

- (a) the number of passengers so taken on board, and
- (b) that food, fuel and pure water over and above what is necessary for the crew, and the other things, if any, prescribed for the ship by the rules under this Act, have been placed on board, of the quality prescribed by the rules, properly packed, and sufficient to supply the passengers on board during the voyage which the ship is to make (including such detention in quarantine as may be probable) according to the scale for the time being prescribed by those rules :

Provided that, if the certificate B held by the master of the ship states that food, fuel and pure water over and above what is necessary for the crew, and the other things, if any, prescribed for her by the rules under this Act, have been placed on board, of the quality prescribed by the rules, properly packed, and sufficient to supply the full number of passengers which she is capable of carrying, the master shall not be bound to obtain any such supplementary certificate.

20. When the ship reaches her final port or place of arrival, the master shall notify to such officer as the Governor General in Council appoints in this behalf the date and supposed cause of death of every passenger dying on the voyage.

Deaths on voyage.

CHAPTER IV.

RULES FOR LONG VOYAGES.

21. (1) A ship propelled by sails and performing a long voyage shall, subject to the provisions of this Act, contain in the between-decks at least twelve superficial feet and seventy-two cubic feet of space available for every passenger.

Space to be available for passengers.

(2) A ship propelled by steam, or partly by steam and partly by sails, and performing a long voyage, shall, subject as aforesaid, contain in the

between-decks at least nine superficial feet and fifty-four cubic feet of space available for every passenger.

22. The master of a ship departing or proceeding on a long voyage from any port or place in British India shall sign two statements, specifying the number and the respective sexes of all the passengers, and the number of the crew, and shall deliver them to the officer appointed under section 7, who shall thereupon, after having first satisfied himself that the numbers are correct, countersign and return to the master one of the statements.

23. The master shall note in writing on the statement returned to him, and on any additional statement to be made under the next following section, the date and supposed cause of death of any passenger who may die on the voyage, and shall, when the ship arrives at her port or place of destination or at any port or place at which it may be intended to land passengers, and before any passengers leave the ship, produce the statement, with any additions thereto made, to a person lawfully exercising consular authority on behalf of Her Majesty at the port or place or to the Chief Customs-officer thereat or the officer (if any) appointed there under section 7.

Ship taking additional passengers at intermediate place. 24. (1) In either of the following cases, namely,—

(a) if after the ship has departed or proceeded on a long voyage any additional passengers are taken on board at a port or place within British India appointed under this Act for the embarkation of passengers, or

(b) if the ship upon her voyage touches or arrives at any such port or place, having previously received on board additional passengers at any place beyond British India,

the master shall obtain a fresh certificate to the effect of certificate B from the officer appointed at that port or place under section 7, and shall make additional statements specifying the number and the respective sexes of all the additional passengers.

(2) All the foregoing provisions of this Act with respect to certificate B and statements concerning passengers shall be applicable to any certificate granted or statement made under this section.

Certain ships to be propelled by steam. 25. A ship carrying passengers from or to any port in British India to or from any port in the Red Sea shall be propelled principally by steam.

26. A ship carrying more than one hundred passengers from or to any port in British India to or from any port in the Red Sea shall have on board a medical officer licensed in accordance with the rules under this Act.

27. A ship carrying passengers from or to any port in British India other than Aden to or from any port in the Red Sea shall touch at Aden, and shall not leave that port without having obtained from the proper authority a clean bill of health.

28. The authority at Aden empowered to grant the bill of health shall refuse to grant it if the ship has on board a greater number of passengers than the number allowed for the ship by or under this Act, and may refuse to grant it if the requirements of any rule under this Act are not complied with on board the ship.

29. In the case of a ship carrying passengers from any port in British India other than Aden to any port in the Red Sea, the officer whose duty it is to grant a port-clearance for the ship shall not grant the clearance unless and until the master, owner or agent of the ship and two sureties resident in British India have executed in favour of the Secretary of State for India in Council a joint and several bond, for the sum of five thousand rupees, conditioned—

(a) that the ship shall touch at Aden on the outward voyage and there obtain a clean bill of health, and shall do the same on the homeward voyage if the ship continues to carry more than sixty passengers, and

(b) that the master and medical officer (if any) of the ship shall comply with, on the outward voyage, and also on the homeward voyage if the ship continues to carry more than sixty passengers, the provisions of this Act and of such rules relating to ships carrying passengers between ports in British India and ports in the Red Sea as the Governor General in Council may make under this Act.

30. (1) The Local Government may direct that no passenger shall be received on board any ship or any ship of a specified class carrying passengers from any port in British India to any port in the Red Sea unless and until the passenger has been inspected, at such time and place, and in such manner, as the Local Government may fix in this behalf, by a medical officer to be appointed by that Government for the purpose.

(2) If in the opinion of the officer making an inspection under this section a passenger is suffering from any dangerously infectious or contagious disease, the passenger shall not be permitted to embark.

CHAPTER V.

PENALTIES.

31. If a ship departs or proceeds on a voyage from, or discharges passengers at, any port or place within British India in contravention of the provisions of section 6, sub-section (1), or section 9, or if a person is received as a passenger on board a ship in contravention of the provisions of section 6, sub-section (2), the master or owner shall, for every passenger carried in the ship, or for every passenger so discharged or received on board, be punished with fine which may extend to one hundred rupees, or with imprisonment for a term which may extend to one month, or with both, and the ship, if found within two years in any port or place within British India, may be seized and detained by a Chief Customs-officer until the penalties incurred under this Act by her master or owner have been adjudicated, and the payment of the fines imposed on him under this Act, with all costs, has been enforced, under the provisions of this Act :

Provided that the aggregate term of imprisonment awarded under this section shall not exceed one year.

32. If a person impedes or refuses to allow the entry or inspection authorized by or under this Act, he shall be punished with fine which may extend to five hundred rupees for each offence, or with imprisonment for a term which may extend to three months, or with both.

33. If a master or owner without reasonable excuse, the burden of proving which shall lie upon him, fails to comply with the requirements of section 16 with respect to the posting of copies of certificates, he shall be punished with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to one month, or with both.

34. If a master fails to comply with any of the requirements of section 22 or section 23, as to the statements concerning passengers, or wilfully makes any false entry or note in or on any such statement, or without reasonable excuse, the burden of proving which shall lie upon him, fails to obtain any such supplementary certificate as is mentioned in section 19, or to report deaths as required by section 20, or to obtain any such fresh certificate, or to make any such statement of the number of additional passengers, as is mentioned in section 24, he shall be punished with fine which may extend to five hundred rupees for every such offence, or with imprisonment for a term which may extend to three months, or with both.

35. If a master, after having obtained any of the certificates mentioned in section 9, section 19 or section 24, fraudulently does or suffers to be done anything whereby the certificate becomes inapplicable to the altered state of the ship, her passengers or other matters to which the certificate relates, he shall be punished with fine which may extend to two thousand rupees, or with imprisonment for a term which may extend to six months, or with both.

36. If a master without reasonable excuse, the burden of proving which shall lie upon him, omits to supply to any passenger the allowance of food, fuel and water prescribed by the rules under this Act, he shall be punished with fine which may extend to twenty rupees for every passenger who has sustained detriment by the omission.

37. (1) If a ship carrying passengers to or from any port or place in British India has on board a number of passengers which is greater than the number allowed for the ship by or under this Act, the master and owner shall, for every passenger over and above that number, be each punished with fine which may extend to twenty rupees, and the master shall further be liable to imprisonment for a term which may extend to one week in respect of each such passenger:

Provided that the aggregate term of imprisonment awarded under this section shall not exceed six months.

(2) Any officer authorised in this behalf by the Local Government may cause all passengers over and above the number allowed by or under this Act to disembark and may forward them to any port at which they may have contracted to land, and recover the cost of so forwarding them from the master or owner of the ship as if the cost were a fine imposed under this Act, and a certificate under the hand of that officer shall be conclusive proof of the amount of the cost aforesaid.

38. If a ship carrying passengers from any port or place beyond British India to any port or place in British India has on board a number of passengers greater either than the number allowed for the ship by or under this Act or than the number allowed by the license or certificate, if any, granted in respect of the ship at her port or place of departure, the master and owner shall, for every passenger in excess of that number, be each punished with fine which may extend to twenty rupees.

39. If the master of a ship lands any passenger at any port or place other than the port or place at which the passenger may have contracted to land, unless with his previous consent, or unless the landing is made necessary by perils of the sea or other

unavoidable accident, the master shall, for every such offence, be punished with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to one month, or with both.

40. If a ship, otherwise than by reason of perils of the sea or other unavoidable accident, touches at any port or place in contravention of any express or implied contract or engagement with the passengers with respect to the voyage which the ship was to make and the time which that voyage was to occupy, whether the contract or engagement was made by public advertisement or otherwise, the master and owner shall each be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

Penalty for making voyage in contravention of contract with passengers.

41. If a ship carrying passengers from or to any port in British India to or from any port in the Red Sea is not propelled principally by steam as required by section 25, the master and owner shall each be punished with fine which may extend to five hundred rupees, or with imprisonment which may extend to three months, or with both.

Penalty on master and owner of certain ships not propelled by steam.

42. If a ship carrying more than one hundred passengers from or to any port in British India to or from any port in the Red Sea has not on board a medical officer as required by section 26, the master of the ship shall be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

Penalty for not obtaining bill of health at Aden.

43. If in the case of a ship to which section 27 applies the master without reasonable excuse, the burden of proving which shall lie upon him, fails to touch at Aden, or leaves that port without having obtained a bill of health under that section, he shall, for every such offence, be punished with fine which may extend to two thousand rupees, or with imprisonment for a term which may extend to six months, or with both.

Penalty on master or medical officer of certain ships disobeying rules.

44. If in the case of any such ship as is referred to in the last foregoing section the master or the medical officer, if any, of the ship without reasonable excuse, the burden of proving which shall lie upon him, breaks, or omits or neglects to obey, any rule under this Act applicable to the ship, he shall be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

45. If the master of a ship to which a direction under section 30 applies knowingly receives on board the ship any person in contravention of that section, he shall be punished with fine which may extend to five hundred rupees for each person so received, or with imprisonment which may extend to three months, or with both.

Penalty on master receiving passenger in contravention of section 30.

Procedure.

Adjudication of offences, and levy of fine by distress on ship.

46. (1) Offences against this Act shall be punishable by a Magistrate(a).

(2) If the person on whom a fine is imposed under this Act is the master or owner of a ship, and the fine is not paid at the time and in the manner prescribed by the order of payment, the Magistrate may, in addition to the ordinary means prescribed by law for enforcing payment, direct by warrant the amount remaining unpaid to be levied by distress and sale of the ship, her tackle, furniture and apparel.

47. For the purpose of the adjudication of penalties under this Act, every offence against its provisions shall be deemed to have been committed within the limits of the jurisdiction of the Magistrate of the place where the offender is found.

Jurisdiction.

48. The penalties to which masters and owners of ships are made liable by this Act shall be enforced only on information laid at the instance of officers appointed to grant certificates under this Act, or, at any port or place where there is no such officer, at the instance of the Chief Customs-officer.

Authority to institute proceedings for penalties.

49. A Magistrate imposing a fine under this Act may, if he thinks fit, direct the whole or any part thereof to be applied in compensating any person for any detriment which he may have sustained by the act or default in respect of which the fine is imposed, or in or towards payment of the expenses of the prosecution.

Applications of fines.

50. (1) Whenever in the course of any legal proceeding under this Act the testimony of a witness is required in relation to the subject-matter of the proceeding, any deposition which he may have previously made in relation to the same subject-matter before any Justice or Magistrate in Her Majesty's dominions (including all parts of India other than those subject to the same Local Government as the port or place where the proceeding is instituted), or before any British consular officer elsewhere, shall be admissible in evidence on proof that the witness cannot be found within the jurisdiction of the Court in which the proceeding is instituted :

Depositions of absent witnesses.

S. 46 (a).—See the definition in S. 5 (7).

Provided that the deposition shall not be admissible unless—

- (a) it is authenticated by the signature of the Justice, Magistrate or consular officer;
- (b) it was made in the presence of the person accused; and
- (c) the fact that it was so made is certified by the Justice, Magistrate or consular officer.

(2) It shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition; and in any criminal proceeding such certificate as aforesaid shall, unless the contrary is proved, be sufficient evidence of the accused having been present in manner thereby certified.

CHAPTER VI.

SUPPLEMENTAL PROVISIONS.

51. (1) The Chief Customs-officer, or other officer, if any, appointed by the Local Government in this behalf, at any port or place within British India at which a ship carrying passengers touches or arrives, shall, with advertence to the provisions of this Act, send any particulars which he may deem important respecting the ship, and the passengers carried therein, to the officer at the port or place from which the ship commenced her voyage, and to the officer at any other port or place within British India where the passengers or any of them embarked or are to be discharged.

(2) The Chief Customs-officer, or other officer, if any, appointed by the Local Government in this behalf, at any port or place in British India at which a ship to which this Act applies touches or arrives, may enter on the ship and inspect her in order to ascertain whether the provisions of this Act as to the number of passengers and other matters have been complied with.

52. In any proceeding for the adjudication of any penalty incurred under this Act any document purporting to be a report of such particulars as are referred to in sub-section (1) of the last foregoing section, or a copy of the proceedings of any Court of Justice duly authenticated, and also any like document purporting to be made and signed by any person lawfully exercising consular authority on behalf of her Majesty in any foreign port, shall be received in evidence, if it appears to have been officially transmitted to any officer at or near the place where the proceeding under this Act is had.

53. (1) The Governor General in Council may make rules consistent with this Act to regulate, in the case of any ship or class of ships, all or any of the following matters :—

Power for Governor General in Council and Local Government to make rules.

- (a) the scale on which food, fuel and water are to be supplied to the passengers or to any class or classes of passengers, and the quality of the food, fuel and water ;
- (b) the medical stores and other appliances and fittings to be provided on board for maintaining health, cleanliness and decency ;
- (c) the licensing and appointment of medical officers in cases where they are required by this Act to be carried ;
- (d) the boats, anchors and cables to be provided on board ;
- (e) the instruments for purposes of navigation to be supplied ;
- (f) the apparatus for the purpose of extinguishing fires on board and the precautions to be taken to prevent such fires ;
- (g) the provision of appliances for saving life and of means for making signals of distress, and the supply of lights inextinguishable in water and fitted for attachment to life-buoys ;
- (h) the functions of the master, medical officer (if any) and other officers of the ship during the voyage ;
- (i) the access of between-decks passengers to the upper deck ; and
- (j) generally, to carry out the purposes of this Act.

(2) The Local Government may, with the previous sanction of the Governor General in Council, make rules consistent with this Act to regulate, in the case of any ship or class of ships,—

- (a) the local limits within which, and the time and mode at and in which, passengers are to be embarked or discharged at any port or place appointed under this Act in that behalf ; and
- (b) the time within which the ship or any ship of the class is to depart or proceed on her voyage after commencing to take passengers on board.

(3) In making a rule under this section the authority making it may direct that a breach of it shall be punishable with fine which may extend to two hundred rupees, and when the breach is a continuing breach with a further fine which may extend to twenty rupees for every day after the first during which the breach continues.

(4) The power to make rules under this section is subject to the condition of the rules being made after previous publication.

54. The Local Government shall appoint such persons as it thinks fit to exercise and perform the powers and duties which are conferred and imposed by this Act or may be conferred and imposed thereunder.

S. 53 (2) (a).—See G. G. 1888, p. 771.

— (4).—See S. 6 of Act I. of 1887.

1887. A 10 §'55—A 11 Pre.

55. The Governor General in Council may declare, by notification in the Gazette of India, what shall be deemed to be, for the purposes of this Act, "seasons of fair weather" and "seasons of foul weather", and, for sailing-ships and steam-ships respectively, a "long voyage" and a "short voyage".

56. The Governor General in Council may by order prescribe in the case of any ship or class of ships and for all or any voyages the number of superficial or of cubic feet of space to be available for passengers; and the order shall be alternative to, or override, as the Governor General in Council may direct, the provisions of sections 18 and 21 so far as they apply to that ship or class of ships.

57. (1) The Local Government, with the previous sanction of the Governor General in Council, may, subject to such conditions as it thinks fit, exempt any ship or class of ships from any provision of this Act.

(2) In imposing a condition under this section the Local Government may direct that a breach of it shall be punishable with fine which may extend to two hundred rupees, and when the breach is a continuing breach with a further fine which may extend to twenty rupees for every day after the first during which the breach continues.

SCHEDULE.

ENACTMENTS REPEALED.

(See section 4.)

Number and year.	Title.	Extent of repeal.
VIII. of 1876 ...	Native Passenger Ships Act, 1876 ...	The whole.
XVII. of 1883 ...	Native Passenger Ships Act, 1883 ...	The whole.
VII. of 1884 ...	Indian Steam-ships Act, 1884 ...	Section 41.

Act No. XI. of 1887.

RECEIVED THE ASSENT OF THE GOVERNOR GENERAL ON THE
25TH FEBRUARY, 1887.

*An Act to provide for the regulation of traffic on the Sindh-Pishin
Section of the North-Western Railway.*

WHEREAS it is inexpedient that the Indian Railway Act, 1879, so far as it applies to that part of the Sindh-Pishin section of the North-Western Railway which lies beyond the Province of Sindh, should apply thereto in its entirety; It is hereby enacted as follows:—

Title, extent and commencement.

1. (1) This Act may be called the Sindh-Pishin Railway Act, 1887.

(2) It shall extend to all persons for whom the Governor General in Council has power to make laws and regulations at meetings for that purpose; and

(3) It shall come into force at once.

Definition. 2. In the following sections of this Act, "railway" means that part of the Sindh-Pishin section of the North-Western Railway which, whether completed at the commencement of this Act or not, lies beyond the Province of Sindh.

Application of Railway Act. 3. (1) Unless and until extended under this section, no portion of the Indian Railway Act, 1879, shall apply to any part of the railway.

(2) The Governor General in Council may, by notification in the Gazette of India, extend to the railway or any part thereof such portions of that Act as he thinks fit.

(3) In extending any portion of that Act to the railway or any part thereof the Governor General in Council may extend it subject to such modifications as he thinks fit.

Carriage of passengers and property permissive only. 4. (1) No person shall be entitled, as of right, to be carried on the railway or to have property carried thereon;

(2) But the carriage of passengers and property on the railway shall be permitted subject to such conditions and restrictions as the Governor General in Council may prescribe.

Exemption of the Government from liability for injury or loss. 5. Where any person or property is permitted to be carried on the railway, the Government shall not be responsible for any injury which may happen to the person, or for any loss or damage which may occur in respect of the property, unless the injury happens, or the loss or damage occurs, on a part of the railway with respect to which the Governor General in Council has, by notification^(a) in the Gazette of India, announced that the Government accepts responsibility, to such extent as may be described in the notification, for injury happening, or loss or damage occurring, thereon.

Act No. XII. of 1887. (*Bengal, N. W. Provinces and Assam.*)

S. 3.—Act IV. of 1879 (subject to certain modifications) and sections 4 and 5 of this Act are extended to that part of the Sindh-Pishin section of the N.-W. Railway which lies within the territories of the Khan of Kalá. G. G. 1887, p. 245.

S. 5(a).—See G. G. 1887, p. 245.

Act No. XIII. of 1887.

RECEIVED THE ASSENT OF THE GOVERNOR GENERAL ON THE
11TH MARCH, 1887.

An Act to provide for the protection of person and property from the risks incident to the supply and use of electricity for lighting and other purposes.

WHEREAS it is expedient to control the supply and use of electricity for lighting and other purposes ;

And whereas in the existing circumstances of the supply and use of electricity in India the exercise of that control by means of licenses or other like methods may be deferred, and it will suffice for the present to provide for the protection of person and property from the risks incident to such supply and use ;

It is hereby enacted as follows :—

Title, extent and commencement.

1. (1) This Act may be called the Electricity Act, 1887.

(2) It shall extend to the whole of British India ; and

(3) It shall come into force on the first day of July, 1887.

Definitions.

2. In this Act, unless there is something repugnant in the subject or context,—

(1) “electricity” includes galvanism, magnetism, magneto-electricity and electro-magnetism :

(2) expressions defined in the Indian Telegraph Act, 1885, have the meanings assigned to them in that Act :

(3) “purpose” includes any purpose except the transmission of a message : and

(4) “vessel” includes anything used for the conveyance by water of human beings or of property.²

Notice of intention to supply or use electricity.

3. In either of the following cases, namely :—

(a) if a person intends to undertake the business of supplying electricity, or

(b) if a person intends to use electricity for any public purpose, or in any public place, or in any place where there is likelihood of the public being affected, or in a place in which one hundred or more persons are likely to be assembled, or in a place which is a factory within the meaning of the Indian Factories Act, 1881,

the person shall, one week at least before commencing the supply or use, give notice of his intention to the District Magistrate or, in a presidency-town, to the Commissioner of Police.

Power to make rules.

4. (1) The Governor General in Council may make such rules as he thinks expedient—

- (a) for the protection of person and property from injury by reason of contact with, or the proximity of, appliances or apparatus used in the generation or supply of electricity, and
- (b) for preventing telegraph-lines from being injuriously affected by any of those appliances or apparatus.

(2) The rules may, among other matters, authorise, or empower a Local Government or other authority to authorise, any officer, either by name or in virtue of his office, to enter, inspect and examine any place, carriage or vessel in which the officer has reason to believe any such appliances or apparatus to be.

(3) Any rules made in pursuance of this section shall be deemed to be within the powers conferred by this section on the Governor General in Council, and shall be of the same force as if enacted by this Act.

(4) The power to make rules under this section is subject to the condition of the rules being made after previous publication. *Amendment No 498 Dec 3 91 P.C. 5. p. 112*

5. If a person undertakes the business of supplying electricity, or uses electricity for any such purpose or in any such place as is referred to in section 3, without

Penalties.

giving the notice required by that section, or infringes any rule under section 4, or obstructs an officer in the exercise of his authority under any such rule to enter, inspect and examine any place, carriage or vessel, he shall be punished with fine which may extend to five hundred rupees, and, if he continues so to supply or use electricity or infringe the rule or obstruct the officer, after notice in writing to desist from so doing has been given to him by the District Magistrate or, in a presidency-town, by the Commissioner of Police, he shall be further punished with fine which may extend to one hundred rupees for every day during which such supply, use, infringement or obstruction continues.

6. The Governor General in Council may, for the placing of appliances and apparatus for the supply of electricity for any purpose of the Government, confer upon any public officer any of the powers which the telegraph-authority possesses under the Indian

Exercise for the purposes of the Government of the powers of the telegraph-authority.

Telegraph Act, 1885, with respect to the placing of telegraph lines and posts for the purposes of a telegraph established or maintained by the Government or to be so established or maintained.

Act No. XIV. of 1887.

RECEIVED THE ASSENT OF THE GOVERNOR GENERAL ON THE
30TH JUNE, 1887.

THE INDIAN MARINE ACT 1887.

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An Act for the better administration of Her Majesty's Indian Marine Service.

WHEREAS by the Indian Marine Service Act, 1864(a), it is, among other things, enacted that the Governor General of India in Council shall

have power, subject to the provisions contained in the Indian Councils Act, 1861, as amended by subsequent Acts, at meetings for the purpose of making Laws and Regulations, to make laws for all persons employed or serving in, or belonging to, Her Majesty's Indian Marine Service :

Provided that—

- (a) a law made under that power shall not apply to any offence unless the vessel to which the offender belongs is at the time of the commission of the offence within the limits of Indian waters, which are defined by the said Indian Marine Service Act to include the high seas between the Cape of Good Hope on the west and the Straits of Magellan on the east, and all territorial waters between those limits; and
- (b) the punishments imposed by any such law for offences shall be similar in character to, and shall not be in excess of, the punishments which may at the time of making the law be imposed for similar offences under the Acts relating to Her Majesty's Navy, except that in the case of persons other than Europeans or Americans imprisonment for any term not exceeding fourteen years, or transportation for life or any less term, may be substituted for penal servitude;

And whereas it is further provided by the said Indian Marine Service Act that subject to the provisions of that Act a law made thereunder shall be of the same force and effect as an Act of Parliament and shall be taken notice of by all Courts of Justice in the same manner as if it were a Public Act of Parliament ;

And whereas in pursuance of the power thus conferred and of all other powers vested in the Governor General in Council in this behalf it is expedient to make such laws as are mentioned in the said Indian Marine Service Act and to make provision in other particulars for the proper regulation of, and otherwise in relation to, the Indian Marine Service ;

And whereas the Secretary of State for India in Council has given his previous approval to the passing of this Act ;

It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Title and commencement.

1. (1) This Act may be called the Indian Marine Act, 1887 ; and

64-1887
(43687)
1887
(2) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint in this behalf.²

Definitions.

2. (1) In this Act, unless there is something repugnant in the subject or context,—

(a) "person subject to this Act" means a person who is employed or serves in, or belongs to, the ^{and Indian Marine Service, provided as in the Act of 1887} Indian Marine Service, and who, if he is not a gazetted officer, has been enrolled in that service in the manner provided by this Act :

(b) "gazetted officer" means a person who by virtue of his letter of appointment is holding a position in the Indian Marine Service as—

Commander,	Chief engineer,
2 First grade officer, <i>lieutenant</i>	Engineer, or
Second grade officer, <i>sub-lieutenant</i>	Assistant engineer, or
Third grade officer,	Clerk:

2 1/99. 03

(c) "warrant-officer" means a person who by virtue of his appointment is holding a position in the Indian Marine Service as—

Gunner,	Engine-driver, first class,
3 Apothecary,	Carpenter,
Assistant apothecary, <i>Surgeon</i>	Hospital assistant, or
Assistant clerk,	General mess steward <i>Clerk</i>

3 do.

(d) "petty officer" means a person who ^{by} ~~by virtue of his appointment is~~ ^{holding a position in the Indian Marine Service as—}

<i>General Mess Steward</i>	
• Chief syrang, first class,	• Tindal of lascars, first class,
• Chief syrang, second class,	• Tindal of lascars, second class,
• Ship's steward,	• Tindal of stokers, first class,
• Engine-driver, second class,	• Tindal of stokers, second class,
• Cook on a salary of not less than	• Cassaub, first class,
fifty rupees per mensem,	• Cassaub, second class, or
• General mess butler,	• Cook on a salary of less than
• Syrang of lascars, first class,	fifty rupees per mensem :
• Syrang of lascars, second class,	<i>Syrang of stokers, first class, second class &c</i>
<i>Butt Kasi</i>	

4 do.

(e) "superior officer," used with reference to an officer of a rank mentioned in clause (b), clause (c) or clause (d) of this sub-section, means an officer of a rank mentioned before his in any of those clauses, and, used with reference to any other person subject to this Act, means an officer mentioned in any of those clauses :

(f) "commanding officer" means the officer in command of a vessel, whether by special appointment or by the rules or customs of the service, and includes, as regards any persons subject to this Act who are employed otherwise than on board the vessel to which they belong, such officer, if any, as the Governor General in Council appoints, instead of the commanding officer of that vessel, to discharge the functions of commanding officer with respect to those persons :

(g) "enemy" includes a pirate or rebel :

(h) "Indian Marine Court" means an Indian Marine Court held under this Act :

(i) "Criminal Court" means a Court having ordinary criminal jurisdiction in British India or such a Court established elsewhere by the authority of the Governor General in Council: and

(j) "prescribed" means prescribed by rules made by the Governor General in Council.

(2) The Governor General in Council may, by notification in the Gazette of India, vary any of the definitions in clauses (b), (c) and (d) of sub-section (1) as occasion may appear to him to require, and the references to those clauses in the definition of the expression "superior officer" in clause (e) of that sub-section shall be construed to be references to them as varied by any notification published under this sub-section and for the time being in force.

3. (1) A person to be enrolled in the Indian Marine Service shall be brought on the quarter-deck or other suitable place on boardship or on shore, and the commanding or other prescribed officer shall then—

- (a) cause to be read and explained to him the rules of the service,
- (b) administer to him an oath of allegiance, and
- (c) cause him to sign a roll.

(2) The rules, oath and roll shall be in prescribed forms.

4. In addition to any other rules which may be made under this Act, the Governor General in Council may, by notification in the Gazette of India, make rules² consistent with this Act for the guidance of officers, whether military, Indian Marine, civil or political, in all matters connected with its enforcement.

General power to make rules.
(S. 1 of Act 29 of 1887)
S. 1 of 1887.

CHAPTER II.

OFFENCES AND PUNISHMENTS.

Misconduct in the Presence of the Enemy.

Misconduct of commanding officer in action.

5. If a commanding officer—

- (i) upon signal of battle, or on sight of a vessel of an enemy which it is his duty to engage, does not use his utmost exertion to bring his vessel into action, or
- (ii) does not during an action, in his own person and according to his rank, encourage his inferior officers and men to fight courageously, or
- (iii) when capable of making a successful defence, surrenders his vessel to the enemy, or

S. 2, sub-section (2) is printed as substituted by S. 1 of Act XVII. of 1888.

(iv) in time of action improperly withdraws from the fight,
he shall,—

- (a) if he has acted from cowardice, suffer penal servitude or such other punishment as is hereinafter mentioned;
- (b) if he has acted from negligence, or through other default, be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

Not pursuing the enemy or not
assisting a friend in view.

6. If any officer subject to this Act—

- (i) forbears to pursue the chase of any enemy beaten or flying, or
- (ii) does not relieve and assist a known friend in view to the utmost of his power, or
- (iii) improperly forsakes his station,

he shall,—

- (a) if he has acted from cowardice, suffer penal servitude or such other punishment as is hereinafter mentioned;
- (b) if he has acted from negligence, or through other default, be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

Delaying or discouraging action or service, or deserting post or sleeping on watch.

7. If any person subject to this Act,—

- (i) when any action or service is commanded, presumes to delay or discourage the action or service upon any pretence whatever, or
- (ii) in the presence or vicinity of the enemy deserts his post or sleeps upon his watch,

he shall suffer penal servitude or such other punishment as is hereinafter mentioned.

8. If any person subject to this Act, other than a commanding officer,

Misconduct of subordinate officers and men in action. does not, when ordered to prepare for action, or during an action, use his utmost exertion to carry the orders of his superior officer into execution, he shall,—

- (a) if he has acted from cowardice, suffer penal servitude or such other punishment as is hereinafter mentioned;
- (b) if he has acted from negligence, or through other default, be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

Communications with the Enemy.

Corresponding, &c., with the
enemy.

9. If any person subject to this Act—

- (i) treacherously holds correspondence with or gives intelligence to the enemy, or
- (ii) fails to make known to the proper authorities any information which he may have received from the enemy, or

(iii) relieves the enemy with any supplies, he shall suffer penal servitude or such other punishment as is hereinafter mentioned.

10. If any person subject to this Act holds, without any treacherous intention, any improper communication with the enemy, he shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

Neglect of Duty.

11. If a person subject to this Act deserts his post or sleeps upon his watch, or negligently performs the duty imposed on him, he shall suffer imprisonment or such other punishment as is hereinafter mentioned.

Mutiny.

12. Where a mutiny is accompanied by violence, a person subject to this Act who joins therein shall suffer death or such other punishment as is hereinafter mentioned; and

a person subject to this Act who does not use his utmost exertions to suppress the mutiny shall,—

- (a) if he has acted traitorously, suffer death or such other punishment as is hereinafter mentioned;
- (b) if he has acted from cowardice, suffer penal servitude or such other punishment as is hereinafter mentioned;
- (c) if he has acted from negligence, be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

13. Where a mutiny is not accompanied by violence, a ringleader thereof, being a person subject to this Act, shall suffer death or such other punishment as is hereinafter mentioned; and all other persons subject to this Act who join in the mutiny, or do not use their utmost exertions to suppress it, shall suffer imprisonment or such other punishment as is hereinafter mentioned.

14. A person subject to this Act who endeavours to seduce any other person subject to this Act from his duty or allegiance to Her Majesty, or endeavours to incite him to commit any act of mutiny, shall suffer death or such other punishment as is hereinafter mentioned.

15. A person subject to this Act who makes or endeavours to make any mutinous assembly, or leads or incites any other person to join in any mutinous assembly, or utters any words of sedition or mutiny, shall suffer penal servitude or such other punishment as is hereinafter mentioned.

16. A person subject to this Act who wilfully conceals any traitorous or
Concealing traitorous, muti-
 nous or seditious practice, design
 or words. mutinous practice or design, or any seditious
 or mutinous words spoken against Her Majesty,
 or any practice, design or words tending to
 the hindrance of the service, shall suffer penal
 servitude or such other punishment as is hereinafter mentioned.

17. A person subject to this Act who strikes or attempts to strike, or
Striking or using violence to
 superior officer. uses or attempts to use any violence against,
 his superior officer, being in the execution of his
 office, or otherwise, shall be dismissed with
 disgrace from the Indian Marine Service or suffer such other punishment
 as is hereinafter mentioned.

Insubordination.

18. A person subject to this Act who wilfully disobeys any lawful
Disobedience or using threaten-
 ing language to superior officer. command of his superior officer, or uses threaten-
 ing or insulting language, or behaves with
 contempt, to his superior officer, shall be dis-
 missed with disgrace from the Indian Marine Service or suffer such other
 punishment as is hereinafter mentioned.

Desertion and Absence without Leave.

Desertion.

19. A person subject to this Act who—

- (i) absents himself from his vessel or from the place where his
 duty requires him to be, with the intention of not returning
 to that vessel or place; or
- (ii) at any time and under any circumstances, when absent from
 his vessel or place of duty, does any act which shows that he
 has an intention of not returning to that vessel or place;

shall be deemed to have deserted, and shall suffer penal servitude or
 such other punishment as is hereinafter mentioned;

and in every such case he shall forfeit all pay, bounty, salvage, prize-
 money and allowances which may have been earned by him, and all annuities,
 pensions, gratuities, medals and decorations which may have been granted to
 him, and also all clothes and effects which he may have left on board the
 vessel or at the place from which he has deserted, unless it is otherwise direct-
 ed by the Court by which he is tried or by the Governor General in
 Council.

20. A person subject to this Act who endeavours to seduce any other
Inducing any person to desert. person subject to this Act to desert shall suffer
 imprisonment or such other punishment as is
 hereinafter mentioned.

21. A person subject to this Act who, without being guilty of desertion, improperly leaves his vessel or place of duty shall suffer imprisonment or such other punishment as is hereinafter mentioned.

Breaking out of vessel.

22. A person subject to this Act who, without being guilty of desertion or of improperly leaving his vessel or place of duty, is absent without leave shall suffer imprisonment for any period not exceeding ten weeks or such other punishment as the circumstances of the case may require.

Absence without leave.

Miscellaneous Offences.

23. A person subject to this Act who is guilty of any drunkenness on boardship or on duty shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

Drunkenness on boardship or on duty.

24. An officer subject to this Act who is guilty of cruelty, or of any scandalous or fraudulent conduct, or of any other conduct unbecoming the character of an officer, shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

25. A person subject to this Act who designedly or negligently, or by any default, loses, strands or hazards, or suffers to be lost, stranded or hazarded, any vessel of the Indian Marine Service shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

Suffering vessel to be lost or imperilled.

26. An officer in command of an Indian Marine vessel who receives on board, or permits to be received on board, the vessel any goods or merchandise whatsoever, other than for the sole use of the vessel, except gold, silver or jewels, and except goods and merchandise, belonging to any merchant or on board any vessel which may be shipwrecked or in imminent danger either on the sea or in some port, creek, harbour or river, for the purpose of preserving them for their proper owners, or except such goods or merchandise as he may at any time be ordered to take or receive on board by order of the Government or his superior officer, shall be dismissed from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

Unlawful taking of goods on board.

27. A person subject to his Act who wastefully expends, embezzles or fraudulently buys, sells or receives any ammunition, provisions or other public stores, or knowingly permits any such wasteful expenditure, embezzlement or fraudu-

Embezzling public stores.

lent purchase, sale or receipt, shall suffer imprisonment or such other punishment as is hereinafter mentioned.

28. A person subject to this Act who unlawfully sets fire to any dock-yard, victualling yard, steam-factory yard, arsenal, magazine, building or stores, or to any ship, boat or other craft or furniture thereunto belonging, not being the property of an enemy, shall suffer penal servitude or such other punishment as is hereinafter mentioned.

Arson.

29. A person subject to this Act who knowingly makes or signs a false muster or record or other official document, or who commands, counsels or procures the making or signing thereof, or who aids or abets any other person in the making or signing thereof, shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

Making false documents.

30. A person subject to this Act who wilfully does any act or wilfully disobeys any order, whether in hospital or elsewhere, with intent to produce or to aggravate any disease or infirmity or to delay his cure, or who feigns any disease, infirmity or inability to perform his duty, shall suffer imprisonment or such other punishment as is hereinafter mentioned.

Malingering or misconduct in hospital.

31. A person subject to this Act who has any cause of complaint, either upon the ground of the unwholesomeness of the victuals or upon any other ground, shall quietly make the same known to his commanding officer, and that officer shall inquire into the complaint and shall, as far as he is able, cause the same to be presently remedied, or shall report the case to the Director of Marine; and any person subject to this Act who, upon any pretence whatever, attempts to stir up any disturbance on any such ground shall suffer imprisonment or such other punishment as is hereinafter mentioned.

Creating disturbance on account of complaints.

32. A person subject to this Act who is guilty of any act, disorder or neglect, to the prejudice of good order and discipline, not hereinbefore specified, shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned:

Offences to the prejudice of good order and discipline not otherwise specified.

Provided that, if such act, disorder, or neglect constitutes an offence punishable under the law of British India with imprisonment for a term which may exceed seven years, the person guilty thereof shall not be tried under this Act as for an offence punishable under this section.

33. A person subject to this Act who does not use his utmost exertion to detect, arrest and bring to punishment all offenders against this Act, and does not assist the officers appointed for that purpose, shall suffer imprisonment or such other punishment as is hereinafter mentioned.

Not assisting in arresting offenders.

34. A person subject to this Act who, being duly summoned or ordered to attend as a witness before an Indian Marine Court or a commanding officer exercising jurisdiction under this Act, or to produce any document in his power or control before such a Court or officer, refuses or neglects to attend to give his evidence upon oath or to produce the document, or behaves with contempt to the Court or officer, shall suffer imprisonment which may extend to three months in the case of such refusal or neglect and to one month in the case of such contempt.

35. A person subject to this Act who, when examined on oath before an Indian Marine Court or a commanding officer exercising jurisdiction under this Act, intentionally gives false evidence, shall suffer imprisonment for a term which may extend to seven years.

Offences punishable by Ordinary Law.

36. If a person subject to this Act is guilty of any criminal offence which if committed in British India would be punishable by the law of British India, he shall, subject to the other provisions of this Act, be liable to the same punishment as might for the time being be awarded in British India by any ordinary criminal tribunal competent to try him if the offence had been committed in British India :

Provided that, except as authorized by the Indian Marine Service Act, 1884, and by this Act, the punishment awarded for the offence shall not be dissimilar in character to or in excess of the punishment which may at the time of the passing of this Act be imposed for a similar offence under the Acts relating to Her Majesty's Navy.

Punishments.

37. (1) The following punishments may be inflicted under this Act:—

Schedule of punishments.

- (a) death;
- (b) penal servitude;
- (c) dismissal with disgrace from the Indian Marine Service;
- (d) imprisonment;
- (e) dismissal from the Indian Marine Service;
- (f) loss of seniority as an officer for a specified time or otherwise;
- (g) dismissal from the vessel to which the offender belongs;
- (h) severe reprimand, or reprimand;
- (i) disrating a warrant-officer or petty officer or any other person below that rank;
- (j) forfeiture of pay, bounty, salvage, prize-money and allowances earned by, and of all annuities, pensions, gratuities, medals and decorations granted to, the offender, or of any one or more of the above particulars; also, in the case of desertion, of all clothes and effects left by the deserter on board the vessel to which he belongs.

(2) Each of the above punishments shall be deemed to be inferior in degree to every punishment preceding it in the above scale.

Regulations as to the infliction of punishments. 38. The following regulations shall apply to the infliction of punishments:—

(1) The punishment of penal servitude may, except when otherwise provided by this Act, be inflicted for the term of life or for any other term not less than four years.

(2) In the case of persons other than Europeans or Americans, transportation for life or for any term not less than four years, or imprisonment for any term not exceeding fourteen years, shall be substituted for penal servitude.

(3) The punishment of penal servitude or of transportation, or of imprisonment for more than two years when substituted for penal servitude under the provisions of this Act, shall in all cases involve dismissal from the Indian Marine Service, with or without disgrace, as the prescribed authority may direct.

(4) Dismissal with disgrace shall involve in all cases forfeiture of all pay, bounty, salvage, prize-money and allowances earned by, and of all annuities, pensions, gratuities, medals and decorations granted to, the offender, and an incapacity to serve the Government again in any capacity.

(5) A sentence of dismissal with disgrace may in any case be accompanied by a sentence of imprisonment.

(6) Except as otherwise provided by this Act, a sentence of imprisonment passed otherwise than under clause (2) of this section may extend to two years.

(7) A sentence of imprisonment may be accompanied by a direction that the imprisonment shall be rigorous for the whole or any part of the term thereof.

(8) When a sentence of imprisonment is passed on a warrant-officer or petty officer or any other person below that rank, it may be accompanied by a direction disrating the officer or person.

(9) A sentence of imprisonment shall in all cases be accompanied by forfeiture of pay and allowances during the imprisonment.

39. Subject to the foregoing regulations and the other provisions of this Act, where any punishment is specified by this Act as the penalty for an offence, and it is further declared that another punishment may be awarded in respect of the same offence, the expression "other punishment" shall be deemed to comprise any one or more of the punishments inferior in degree to the specified punishment according to the scale set forth in section 37.

40. No person, unless he is an offender who has avoided arrest or fled from justice, shall be tried or punished in pursuance of this Act for any offence committed by him unless the trial takes place within three years from the commission

of the offence, or within one year after the return of the offender to British India when he has been absent from British India during that period of three years.

CHAPTER III.

JURISDICTION AND POWERS.

41. Subject to the provisions of this Act, and, as respects Criminal Courts, subject to the law relating to criminal procedure for the time being applicable to those Courts, Criminal Courts and Indian Marine Courts or both shall have jurisdiction in respect of the offences punishable under this Act as specified in the following table:—

Section of this Act.	Marginal note.	Courts having jurisdiction.
Section 5	Misconduct of commanding officer in action...	Criminal Courts and Indian Marine Courts.
„ 6	Not pursuing the enemy or not assisting a friend in view... ..	
„ 7	Delaying or discouraging action or service or deserting post or sleeping on watch ...	
„ 8	Misconduct of subordinate officers and men in action	
„ 9	Corresponding, &c., with the enemy	Indian Marine Courts.
„ 10	Improper communication with the enemy ...	
„ 11	Neglect of duty	
„ 12	Mutiny accompanied by violence	
„ 13	Mutiny not accompanied by violence	Criminal Courts and Indian Marine Courts.
„ 14	Inciting to mutiny	
„ 15	Mutinous assembly or uttering seditious words.	
„ 16	Concealing traitorous, mutinous or seditious practice, design or words	
„ 17	Striking or using violence to superior officer ..	Indian Marine Courts.
„ 18	Disobedience or using threatening language to superior officer	
„ 19	Desertion	
„ 20	Inducing any person to desert	
„ 21	Breaking out of vessel	Indian Marine Courts.
„ 22	Absence without leave... ..	
„ 23	Drunkenness on boardship or on duty	
„ 24	Cruelty or misconduct by officer	
„ 25	Suffering vessel to be lost or imperilled ...	Criminal Courts and Indian Marine Courts.
„ 26	Unlawful taking of goods on board	
„ 27	Embezzling public stores	
„ 28	Arson	
„ 29	Making false documents	Indian Marine Courts.
„ 30	Malingering or misconduct in hospital ...	
„ 31	Creating disturbance on account of complaints... ..	
„ 32	Offences to the prejudice of good order and discipline not otherwise specified	
„ 33	Not assisting in arresting offenders	Criminal Courts and Indian Marine Courts.
„ 34	Contempt of Court	
„ 35	False evidence	
„ 36	Offences punishable by ordinary law... ..	

Power to pass sentences.

42. Subject as aforesaid—

- (a) a Criminal Court may pass a sentence of death, penal servitude, transportation or imprisonment; and
- (b) an Indian Marine Court may pass any sentence authorised by this Act except a sentence of death, penal servitude or transportation or of imprisonment for a term exceeding two years.

43. (1) An offence triable by an Indian Marine Court and committed by a person other than a gazetted officer may, under such regulations as the Governor General in Council may make, be summarily tried and punished by the commanding officer of the offender.

Jurisdiction and powers of commanding officers.

(2) Subject to the provisions of this Act and to such restrictions as the Governor General in Council may impose, a commanding officer may pass a sentence of imprisonment for a period not exceeding three months on an offender below the position of petty officer, and may disrate any warrant-officer or petty officer or any other person below that rank.

44. A person subject to this Act who is accused of an offence to which this Act applies may be tried and punished for the offence by a Criminal Court in any place where he may happen to be in the same manner as if the offence had been committed in that place.

Place of trial.

45. Where such an offence has been committed by any person while subject to this Act, he may be taken into custody and be tried and punished for the offence, although he has ceased to be subject to this Act, in like manner as he might have been taken into custody and tried and punished if he had continued to be so subject.

Jurisdiction over person ceasing to be subject to Act.

46. When a person subject to this Act is accused of an offence in respect of which a Criminal Court has jurisdiction over him under this Act or otherwise, the following rules shall apply, namely:—

Case of person charged with an offence cognizable by a Criminal Court.

- (a) any person subject to this Act shall, on application made to him by the Court, assist in arresting and securing the accused, and the commanding officer shall, if so required by the Court, deliver the accused to the Court;
- (b) when no requisition is made under clause (a), the commanding officer may, if he thinks fit, place the accused in custody with a view to delivering him up to such Criminal Court as appears to him most convenient in all the circumstances of the case.

47. When a person subject to this Act is accused of an offence in respect of which an Indian Marine Court or a commanding officer has jurisdiction under this Act, and that person is within the jurisdiction of any civil, political or police officer, that officer shall, upon an application to that effect made to him by the commanding officer of that person or any prescribed authority, aid in the arrest of the person and deliver him when arrested into such custody as the commanding officer or the prescribed authority may require.

48. When an Indian Marine Court or commanding officer under this Act, and a Criminal Court under this Act or otherwise, have concurrent jurisdiction in respect of an offence, and there is a difference of opinion as to the tribunal before which the person accused of the offence should be proceeded against, either tribunal shall, on the requisition of the other, stay proceedings pending a reference to the Governor General in Council, whose order as to the tribunal before which the proceedings are to be had shall be final.

49. An offender shall not be tried by an Indian Marine Court or by his commanding officer for any offence of which he has been convicted or acquitted by a Criminal Court or an Indian Marine Court or, in exercise of the powers conferred by section 43, by his commanding officer.

50. Where a person liable to be tried by an Indian Marine Court under this Act is in confinement in pursuance of a sentence of a Criminal Court, the Director of Marine or other prescribed authority may make an order in the form in Schedule B to the Prisoners' Testimony Act, 1869, directed to the officer in charge of the place in which the person is confined, and the provisions of that Act with respect to compliance with any order made thereunder shall, so far as they can be made applicable, apply in the case of any order made under this section.

51. The Governor General in Council may suspend, annul or modify any sentence passed by an Indian Marine Court or (a) a commanding officer under this Act, or substitute a punishment inferior in degree for the punishment involved in any such sentence, or remit the whole or any portion of the punishment involved in any such sentence, or remit the whole or any portion of any punishment into which the punishment involved in any such sentence has been commuted; and any sentence so modified shall, subject to the provisions of this Act, be valid, and shall be carried into execution as if it had been originally passed with such modification by the Court or officer, but so that the punishment involved in any sentence be not increased by any such modification.

CHAPTER IV.

INDIAN MARINE COURTS.

Constitution of the Court.

Power to convene Indian
Marine Court.

52. (1) The following authorities shall have power to convene Indian Marine Courts, namely:—

- (a) the Governor General in Council;
- (b) the Director of Marine;
- (c) an officer empowered in that behalf by warrant of the Governor General in Council:

Provided that an Indian Marine Court assembled for the trial of a gazetted officer shall be convened only by, or with the previous sanction of, the Governor General in Council.

(2) When a ship or ships is or are detached on separate service, and when immediate example is necessary, and without detriment to the public service reference cannot be made to superior authority, the officer in command of the ship or ships may, without warrant, convene an Indian Marine Court for the trial of any person under his command being subject to this Act and below the rank of a gazetted officer.

53. (1) An Indian Marine Court shall consist of a president and not less than two or more than four other members of rank not inferior to that of first grade officer ^{as may be ordered by the convening authority:} ^{1799.40}

Composition of Indian Marine Court. *Each member to be*

Provided that an Indian Marine Court convened under section 52, sub-section (2), may be composed of the officer convening the same as president and the two graded officers next in seniority available for the duty.

(2) The president of an Indian Marine Court for the trial of a commander shall ~~always~~ ^{of rank not below that of} be a commander, and two at least of the other officers composing the Court shall be ^{of rank not below that of} commanders.

(3) The president of an Indian Marine Court for the trial of any person below the grade of commander, ~~except an Indian Marine Court convened under section 52, sub-section (2), shall be a commander.~~ ^{of rank not below that of}

(4) A person acting as prosecutor shall not be a member of the Court.

(5) An officer convening an Indian Marine Court shall not sit thereon except as permitted by the proviso to sub-section (1).

(6) The president and the other members of every Indian Marine Court shall be named by the authority convening the same.

(7) When an Indian Marine Court, after the commencement of the trial, is reduced to a less number than three members, it shall be deemed to be dissolved.

(8) In the case of the death or unavoidable absence of the president of an Indian Marine Court, the next senior member of the Court, if qualified under sub-section (2) or sub-section (3), as the case may be, shall take the place of the president without special appointment as such.

(9) If such next senior member is not qualified as aforesaid, the Court shall be deemed to be dissolved.

12/10/14
1/11/14 (10), (11) & (12)
1/11/14 (12).

Procedure at the Trial.

54. An Indian Marine Court shall be held on board one of her Majesty's Indian Marine vessels or on land.

55. As soon as an Indian Marine Court is assembled, the names of the members of the Court shall be read over to the prisoner, who shall be asked if he objects to being tried by any of them; if the prisoner objects to any member, the objection shall be decided by the Court; if the objection is allowed, the place of the member objected to shall be filled up by the officer next in seniority available for the duty who is not on the Court, subject to the regulations contained in section 53, sub-sections (2), (3), (4) and (5):

Provided that where the Court is composed as in the proviso to section 53, sub-section (1), and no officer qualified under that section is available to take the place of the officer objected to, the Court shall, after recording the objection, proceed with the trial in like manner as if the objection had been disallowed.

56. (1) Before an Indian Marine Court proceeds to try a prisoner, an oath shall be made by every member of the Court in the prescribed manner.

(2) An oath shall be made in the prescribed manner by any person who gives evidence or acts as an interpreter before an Indian Marine Court.

57. When no specific charge is made against any person subject to this Act for, or in respect or in consequence of, the wreck, loss, destruction or capture of any vessel in the Indian Marine Service, all the officers and crew of the vessel may, if the authority convening the Court thinks fit, be tried together before one and the same Indian Marine Court; and any of them, when upon his trial, may be called upon to give evidence on oath touching any of the matters then under inquiry, but no person shall be obliged to give any evidence which may tend to criminate himself.

58. (1) If by reason of the illness of the prisoner before the finding it is impossible to continue the trial, an Indian Marine Court shall be deemed to be dissolved:

Provided that, where more prisoners than one are being tried and the trial of only one or some of them is rendered impossible by illness, the Court may, if it sees fit, continue the trial of the other or others, and, where the Court so continues the trial, it shall be deemed to have been dissolved only with respect to the prisoner or prisoners whose illness caused the continuance of his or their trial to be impossible.

(2) When the illness with which a prisoner is affected is insanity, the Court shall proceed, as nearly as circumstances admit, in the same manner as a Magistrate or Court may proceed, under section 466 of the Code of Criminal Procedure, 1882, when an accused person is found to be of unsound mind and incapable of making his defence.

59. Subject to the provisions of the last foregoing section, where an Indian Marine Court is dissolved under that section or section 53, sub-section (7) or sub-section (9), the proceedings are null and void, and the prisoner may be tried before another Indian Marine Court on the same charge or charges.

60. The president may, on any deliberation among the members, cause an Indian Marine Court to be cleared of all other persons.

61. Every decision of an Indian Marine Court shall be passed by a majority of votes, and where there is an equality of votes the president shall have a second or casting vote :

Provided that if there is an equality of votes on the finding the decision shall be in favour of the prisoner.

62. (1) Every person who may be required to give evidence or to produce a document before an Indian Marine Court shall be summoned in the prescribed manner.

(2) A summons issued under this section may be sent to any officer exercising magisterial powers within whose jurisdiction the person summoned may be or resides, and the officer shall give effect to the summons as if the witness were required to attend in his Court.

63. When a person subject to this Act who, being duly summoned or ordered to attend as a witness before an Indian Marine Court, behaves with contempt to the Court, the Court, if it thinks fit, instead of reserving him for trial by another Court for an offence under section 34, may, by order under the hand of the president, sentence him to imprisonment for a term which may extend to one month.

Confirmation of Findings and Sentences.

64. (1) The president of an Indian Marine Court shall date and sign the proceedings of the Court and submit them, as soon as possible after their completion, to the confirming authority.

(2) If the Court has made a recommendation to mercy, the recommendation shall be recorded and submitted to the confirming authority as part of the proceedings.

65. A finding or sentence of an Indian Marine Court shall not be valid except in so far as it may be confirmed by the confirming authority.

66. (1) The confirming authority shall ordinarily be the authority convening the Court.

(2) But if the Court was convened for the trial of a gazetted officer with the previous sanction of the Governor General in Council, or if, in the case of a Court convened for the trial of any other person subject to this Act, the Governor General in Council is of opinion that the authority convening the Court cannot act, or cannot conveniently act, as the confirming authority, the confirming authority shall be the Governor General in Council.

(3) The fact that the Governor General in Council has acted as the confirming authority with respect to any finding or sentence shall be conclusive proof that he was the proper confirming authority with respect thereto.

67. (1) The confirming authority may send back the finding and sentence of an Indian Marine Court, or either of them, for revision; and, on the finding or sentence being sent back, the Court may, if so directed by the confirming authority, receive additional evidence.

(2) Where the finding only is sent back for revision, the Court may revise the sentence also.

(3) The confirming authority may, in confirming the sentence of an Indian Marine Court,—

- (a) reduce the punishment thereby awarded, or commute that punishment to any other punishment of inferior degree to which the offender might have been sentenced by the Court;
- (b) suspend for such time as seems expedient the execution of the sentence;
- (c) if the finding or sentence is informally expressed, vary the form thereof, or, if the sentence is invalid, substitute a valid sentence therefor.

(4) Notwithstanding any error, omission or irregularity in any proceeding of an Indian Marine Court, the confirming authority may confirm the finding or sentence of the Court, or either of them, unless the error, omission or irregularity has, in the opinion of that authority, occasioned a failure of justice.

Evidence.

68. The Indian Evidence Act, 1872, subject to such modifications therein as the Governor General in Council may, by notification in the Gazette of India, direct, shall ^{§ 93 (1876)} ^{2:26656} apply to all proceedings before Indian Marine Courts.

Preservation of Proceedings.

69. (1) The proceedings of all Indian Marine Courts shall be preserved in the office of the Director of Marine for not less than seven years in the case of the trial of a gazetted officer, or than three years in the case of any other person.

Preservation of Indian Marine Court proceedings and grant of copies.

(2) Any person tried by an Indian Marine Court shall be entitled, on demand at any time after the confirmation of the finding and sentence of the Court and before the proceedings are destroyed, to obtain from the officer or person having the custody of the proceedings a copy thereof, upon payment for the same at the prescribed rate.

Power to make Rules respecting Procedure.

70. (1) The Governor General in Council may make rules² to regulate ^{§ 93 (1876)} ^{2:26656} the procedure of Indian Marine Courts, and for the purpose of carrying this Act into execution, so far as relates to the investigation, trial and punishment of offences triable by those Courts.

Power to make rules respecting procedure.

(2) The Governor General in Council may by any such rule confer on an Indian Marine Court any power (other than a power to try an accused person or pass a sentence) conferred on a Court of original criminal jurisdiction by the Code of Criminal Procedure, 1882.

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CHAPTER V.

SUPPLEMENTAL CRIMINAL PROVISIONS.

Procedure of Criminal Courts beyond British India.

71. The law relating to criminal procedure for the time being in force in British India shall, subject to such modifications as the Governor General in Council, by notification in the Gazette of India, directs, apply to all proceedings under this Act in Criminal Courts beyond the limits of British India.

Procedure of Criminal Courts beyond British India.

Arrest.

72. The following rules shall apply to persons subject to this Act when
Arrest of offenders. charged with offences under this Act :—

(1) Every such person shall be placed in custody, but no person shall be detained in custody longer than is necessary for the purposes of justice.

(2) “ Custody ” means, according to the usage of the service, the putting of the offender under arrest or the putting him in confinement.

(3) Any officer, or, if more officers than one are present, the senior of them, may order into custody any other person of inferior rank subject to this Act.

(4) The charge made against every person taken into custody shall, without unnecessary delay, be investigated by his commanding officer or other prescribed authority ; and, as soon as may be, proceedings shall be taken for punishing the offender or discharging him from custody.

73. A commanding officer shall, upon an investigation being made into
Power of commanding officer. a charge against a person subject to this Act and under his command of having committed an offence under this Act, dismiss the charge if he thinks that it ought not to be proceeded with ; but when he thinks the charge ought to be proceeded with, he shall, subject to the provisions of this Act, take steps without delay for bringing the offender to trial.

Execution of Sentences of Indian Marine Courts and Commanding Officers.

74. (1) Every term of imprisonment awarded in pursuance of the
Commencement of sentences of imprisonment. sentence of an Indian Marine Court or of a commanding officer exercising jurisdiction under this Act shall, except as provided in sub-section (2), be deemed to commence on the day on which the original sentence was signed by the president of the Court or pronounced by the commanding officer.

(2) When a person already undergoing a sentence of penal servitude, transportation or imprisonment is sentenced by an Indian Marine Court to imprisonment, that imprisonment shall commence at the expiration of the penal servitude, transportation or imprisonment to which he has previously been sentenced :

Provided that when, under this sub-section, at the expiration of a term of imprisonment to which a person has been sentenced by an Indian Marine Court, another term of imprisonment to which he has been similarly sentenced commences, and the aggregate term of imprisonment to which he would be thus liable would, as reckoned from the commencement of such imprisonment, exceed two years, so much of that term as is in excess of two years shall be deemed to be remitted.

75. (1) A person sentenced by an Indian Marine Court, or by a commanding officer exercising jurisdiction under this Act, to imprisonment shall be detained in the prescribed custody, until he is transferred to a prison.

(2) A person sentenced as aforesaid shall, as soon as may be practicable, be transferred to a prison in British India, and shall be delivered over with a warrant of commitment in the prescribed form signed by the prescribed authority to the officer in charge of that prison.

(3) A person transferred to a prison under sub-section (2) shall thereafter be dealt with in all respects as if he were detained in that prison under a sentence of a Criminal Court :

Provided that—

- (a) when he is a person sentenced to imprisonment by his commanding officer, the commanding officer, or the Director of Marine, may at any time by order in writing direct that he be discharged ;
- (b) the Director of Marine or any commanding officer may, by order in writing, direct that any person so transferred shall be delivered over to the prescribed custody for the purpose of being brought before an Indian Marine Court either as a witness or for trial or otherwise, and that he shall again be transferred to the prison.

Savings.

Saving of authority of ordinary Courts.

76. Except as expressly provided by this Act, nothing in this Act shall affect the jurisdiction or powers of any Court of criminal jurisdiction.

Minor punishments.

77. Nothing in this Act shall affect any rules, regulations, conditions or customs of the Indian Marine Service now or hereafter in force under which any person may be liable—

- (a) to dismissal, loss of seniority, disrating, forfeiture or stoppages ;
or
- (b) to any restriction not amounting to custody, or any deprivation of indulgence or additional duty, imposed in the way of discipline.

Amendment of Acts.

Amendment of Act X. of 1882, section 54 (Arrest of Deserters).

78. In the Code of Criminal Procedure, 1882, section 54, after the words "Army or Navy" the following shall be inserted, namely:—

"or of belonging to Her Majesty's Indian Marine Service and being illegally absent from that service."

Amendment of Chapter VII. of the Penal Code (Offences relating to Army and Navy).

Application of foregoing sections to the Indian Marine Service.

79. After section 138 of the Indian Penal Code the following section shall be inserted, namely :—

“138A. The foregoing sections of this Chapter shall apply as if Her Majesty’s Indian Marine Service were comprised in the Navy of the Queen.”

CHAPTER VI.

PROVISIONS OF CIVIL LAW.

Exemption from Process.

80. (1) A person below the position of gazetted officer shall not, while subject to this Act, be liable to be taken out of the Indian Marine Service by any process, execution or order of any Court of law, or otherwise, or be compelled to appear in person before any Court of law except in respect of the following matters, or one of them ; that is to say :—

- (a) on account of a criminal charge or conviction ;
- (b) on account of a decree for money, when the amount exceeds three hundred rupees over and above the costs of the suit.

(2) The Judge of any such Court may examine into any complaint made by any such person, or his superior officer, of the arrest of the person contrary to the provisions of this section, and may by order under his hand discharge the person, and award reasonable costs to the complainant, who may recover those costs as he might have recovered costs awarded to him by a decree against the person obtaining the process.

81. The clothes, equipment or arms of a person subject to this Act shall not be seized, nor shall the pay and allowances or any part thereof of any such person below the position of a gazetted officer be attached, in execution of any decree or order enforceable against him by any Court of Civil Judicature.

Property which cannot be attached.

Property of Deceased Persons and Deserters.

Disposal of property of deceased persons and deserters.

82. The following rules are enacted respecting the disposal of the property of any person subject to this Act who dies or deserts :—

(1) The commanding officer shall secure all the moveable property which is on the spot and cause an inventory thereof to be made.

(2) In the case of a deceased person, if his representative is on the spot and gives security for the payment of the ship and service debts of the deceased, the commanding officer shall deliver over the property to that representative.

(3) In the case of a deceased person, if the property is not dealt with under clause (2), and in the case of every deserter, the commanding officer shall cause the property to be sold by public auction, and from the proceeds of the sale shall pay the ship and service debts and, in the case of a deceased person, the expenses of his funeral ceremonies.

(4) The surplus, if any, shall in the case of a deceased person be paid to his representative.

(5) In the event of no claim for the surplus of a deceased person's estate being established within twelve months after his death, and immediately after the sale of the effects of a deserter, the amount remaining in the hands of the commanding officer shall be remitted to the Director of Marine.

(6) Property deliverable or money payable to the representative of a deceased person under this section may, if the value or amount thereof does not exceed one thousand rupees and the Director of Marine or the prescribed authority thinks fit, be delivered or paid to any person appearing to him to be entitled to receive it, or to administer the estate of the deceased, without requiring the production of any probate, letters of administration, certificate or other such conclusive evidence of title; and such delivery or payment shall be a full discharge to the person ordering or making the same and to the Secretary of State for India in Council from all further liability in respect of the property or money; but nothing in this section shall affect the rights of any executor or administrator or other representative or of any creditor of a deceased person against a person to whom any such delivery or payment has been made.

(7) A person shall be deemed to have deserted within the meaning of this section who has been convicted of desertion, or who has been absent without leave for a period of thirty days from the Indian Marine Service, and has not subsequently surrendered or been arrested.

Act No. XV. of 1887. (*Burma.*)

Acts Nos. XVI. and XVII. of 1887. (*Panjab.*)

Act No. XVIII. of 1887. (*Allahabad.*)

Act No. XIX. of 1887. (*Oudh.*)

Act No. XX. of 1887.

RECEIVED THE ASSENT OF THE GOVERNOR GENERAL ON THE
21ST OCTOBER, 1887.

An Act for the Protection of Wild Birds and Game.

WHEREAS municipal authorities in different parts of British India have from time to time made rules for the protection of birds and other game ;

And whereas it is expedient that Local Governments and cantonment authorities as well as municipal authorities should be empowered to make such rules ;

It is hereby enacted as follows :—

Title, extent, and commencement.

1. (1) This Act may be called the Wild Birds Protection Act, 1887.

(2) It extends to the whole of British India ; and

(3) It shall come into force at once.

Definitions.

2. In this Act—

(1) “municipal authority” means the corporation, commissioner, committee, board, council or person having authority over a municipality under any enactment for the time being in force :

(2) “cantonment authority” means a cantonment-committee or, in the case of a cantonment for which such a committee has not been constituted, the commanding officer of the cantonment : and

(3) “wild bird” includes a peacock and every bird of game.

3. (1) The Local Government with respect to any municipality or cantonment within the territories under its administration, or the municipal authority or cantonment authority of any municipality or cantonment, may from time to time make rules—

(a) defining the expression “wild bird” for the purposes of this Act in its application to the municipality or cantonment ;

(b) defining for those purposes the breeding season of any kind of wild bird ; and

(c) prohibiting, subject to such exceptions and conditions as may be prescribed by the rules, the possession or sale during its breeding season within the municipality or cantonment of any kind of wild bird recently killed or taken, or the importation into the municipality or cantonment of the plumage of any kind of wild bird during such season.

(2) The authority making a rule under clause (c) of sub-section (1) may direct that a breach of it shall be punishable with fine which may extend, in the case of a first offence, to five rupees for every wild bird in respect of which

or of the plumage whereof the breach of the rule has been committed, and, in the case of a subsequent offence, to ten rupees in respect of every such bird or plumage.

(3) A Court convicting any person of a breach of any such rule may order the confiscation of any wild bird or plumage in respect of which the breach was committed.

(4) The power to make rules under this section is subject to the condition of the rules being made after previous publication and, in the case of rules made by a municipal authority or cantonment authority, to the further condition of the rules being confirmed by the Local Government before they are published in the official Gazette under clause (5) of section 6 of the General Clauses Act, 1887.

'See now § 47523 (2).

4. The Local Government, of its own motion or on the application of any municipal authority or cantonment authority, may, by notification in the official Gazette, declare the provisions of the last foregoing section with respect to wild birds to apply to any animals of game other than birds, and thereupon those provisions shall apply to such animals and their furs in like manner as they apply to wild birds and their plumage.

Power to apply Act to any animals of game.

Act No. XXI. of 1887.

'e. 8/11/96 s 3 (1).

RECEIVED THE ASSENT OF THE GOVERNOR GENERAL ON THE
21ST OCTOBER, 1887.

An Act to provide for the establishment of bonded warehouses at places other than customs-ports.

WHEREAS it is expedient to provide for the establishment of bonded warehouses at places other than customs-ports; It is hereby enacted as follows:—

Title, construction and commencement.

1. (1) This Act may be called the Inland Bonded Warehouse Act, 1887.

(2) It shall be read with, and taken as part of, the Sea Customs Act, 1878: and

(3) It shall come into force at once.

2. (1) Notwithstanding anything in the Sea Customs Act, 1878, the Chief Customs-authority may from time to time, with the previous sanction of the Local Government, appoint a public or license a private warehouse at any place which is not a warehousing port, and may with the like sanction cancel such appointment or license.

Inland bonded warehouses and law applicable thereto.

(2) In reference to such a place and the warehouse appointed or licensed thereat the provisions of the said Act with respect to the levy of customs-duties on goods brought in bond from one customs-port to another, and with respect to warehousing, shall be construed as if the place were a customs-port and a warehousing port, and the warehouse a public or a private warehouse, as the case may be, appointed or licensed thereat under that Act.

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Bombay Act No. I. of 1887.

PUBLISHED BY THE GOVERNOR OF BOMBAY ON THE 21ST MARCH, 1887.

An Act to further amend Bombay Act II. of 1874.

WHEREAS it is expedient to further amend Bombay Act II. of 1874 (*an Act for the Regulation of Jails in the City and Presidency of Bombay and the enforcement of discipline therein*) in manner hereinafter appearing; It is enacted as follows:—

Amendment of section 19, the following section shall be substituted, viz.:—
Bombay Act II. of 1874.

1. For section nineteen of the said Act
“19. District Jails may be established at the stations at which criminal sessions are ordinarily held by Sessions Judges or Joint Sessions Judges and at such other places as the Governor in Council may from time to time direct, and the Governor in Council may abolish or from time to time remove a District Jail to another place.”

New section to be inserted after section 22, Bombay Act II. of 1874. 2. After section twenty-two of the said Act, the following section shall be inserted, viz.:—

“22A. In districts in which there is no District Jail, convicts and persons committed for intermediate custody pending trial before the Court of Session shall be sent to such Subordinate Jail as the Governor in Council, by order published in the *Bombay Government Gazette*, shall from time to time direct: Provided that nothing in this section shall be deemed to affect the power of Government, or of the Inspector-General of Prisons, if specially empowered by Government in this behalf, to direct the removal of prisoners from one jail to another.”

Amendment of section 41 of Bombay Act II. of 1874. 3. The last sentence of section forty-one of the said Act, commencing with the words “The Superintendent,” is repealed.

Bombay Act No. II. of 1887.

PUBLISHED BY THE GOVERNOR OF BOMBAY ON THE 4th JUNE, 1887.

*An Act to provide for the protection of pilgrims at the ports of
Bombay and Karáchi.*

WHEREAS it is expedient to provide for the protection of pilgrims at the ports of Bombay and Karáchi; It is enacted as follows:—

Short Title.

1. This Act may be cited as “The Protection of Pilgrims Act, 1887.”

Extent.

It extends only to the cities and ports of Bombay and Karáchi.

Definitions.

2. In this Act,—

- (1) “pilgrim” means a Mahomedan who is about to proceed from the port of Bombay or Karáchi on a pilgrimage to the Hedjaz, whether he is going direct to

Jeddah, or *viâ* any other port:

- (2) “pilgrim-broker” means a person who buys and resells, or sells on commission, or takes any reward for the purchase or sale of passage-tickets for pilgrims:

- (3) “agent” includes a person who has chartered a vessel for the conveyance of pilgrims:

- (4) “the Commissioner” means, in Bombay, the Commissioner of Police or his deputy: and in Karáchi such officer as the Governor in Council may appoint.

3. Any person who, without a license from the Commissioner, acts as a pilgrim-broker shall be liable for each such offence to a fine which may extend to five hundred rupees.

Penalty for acting as a pilgrim-broker without a license.

4. Subject to the orders of the Governor in Council the Commissioner may grant to such persons as he thinks fit licenses to act as pilgrim-brokers.

The said licenses shall be granted on such conditions and subject to such restrictions and limitations for the honest and good behaviour of the licensees as Government may from time to time prescribe.

5. Every license so granted shall specify:

Licenses what to specify.

- (a) the name and business-address of the licensee;
- (b) the period for which it is to be in force;

Bom. Act II.—As to the restriction on the entry of pilgrims and other indigent persons into Aden, see Reg. No. XI. of 1887, printed in the App. to this Volume.

(c) the conditions on which and the restrictions and limitations subject to which it is granted ;
and shall be granted on payment of such fee, if any, as Government may from time to time direct.

Penalty for misbehaviour of licensed pilgrim-broker. 6. Any licensed pilgrim-broker who shall :

- (a) commit a breach of any of the terms or conditions of his license ;
- (b) purchase for or sell to any pilgrim a passage-ticket by any vessel to which the provisions of the Native Passenger Ships Act, 1876(a), apply, at any time before notice has been given by the master, owner, or agent of such vessel, under section seven of the said Act, of the date on which it is proposed that such vessel shall sail, and unless, in the case of any vessel, the proposed date of sailing is printed on the passage-ticket ;
- (c) charge a pilgrim more than the cost price of any passage-ticket, provisions, or other articles purchased for him, or receive from him any fee or commission on account of such ticket ;
- (d) receive from the master, owner, or agent of a vessel any fee or commission, in respect of the sale of any ticket, exceeding five per centum of the price of such ticket ;
- (e) purchase for any pilgrim a passage ticket, on which there is not printed the price charged by the master, owner, or agent of the vessel for each class of accommodation ;
- (f) by fraud or by false representation as to the size of, or accommodation on board, such vessel, or otherwise, or by any false pretence whatever, induce any person to purchase a passage-ticket ;

shall be liable for each such offence to a fine which may extend to five hundred rupees.

7. The Commissioner may suspend the license of any pilgrim-broker pending inquiry into any accusation against him of misconduct for which, if proved, he would be liable to a penalty under the last preceding section, and may cancel any license granted by him if the licensee is convicted of any offence under the said section or of any criminal offence.

Appointment of Protectors of Pilgrims.

8. Government may from time to time appoint persons, being Mahomedans, to be Protectors of Pilgrims for the ports of Bombay and Karáchi.

8. 6 (a).—The reference must now be taken as made to the Native Passenger Ships Act, 1887. See 4 of Act X. of 1887.

The persons so appointed shall, for the purposes of this Act, be sub-

Their duties.

ordinate to the Commissioner in Bombay and Karáchi respectively and shall, with the co-operation of the police, aid the Commissioner in giving effect to the provisions of this Act. They shall also advise and generally assist pilgrims during their stay in Bombay or Karáchi whilst proceeding to or returning from the Hedjaz, and exercise supervision over the proceedings of licensed pilgrim-brokers.

9. The Protectors of Pilgrims, or any persons authorised by the Commissioner in this behalf, shall be at liberty at

Power to enter vessels conveying pilgrims.

all times to enter and inspect any vessel

advertised or offering to convey pilgrims from the port of Bombay or Karáchi.

10. The master or any officer of any such vessel who does not afford every facility for such inspection shall be liable

Penalty for not facilitating inspection.

to a fine which may extend to five hundred rupees.

11. The master, owner, or agent of every vessel advertised or offering to convey pilgrims shall be bound to supply the

Information to be supplied by the master, owner, or agent of vessel conveying pilgrims.

Protector of Pilgrims, on demand, with full particulars as to the class, tonnage, and age of the vessel, the number of tickets of each class

to be issued, the price of each ticket, the accommodation to be provided, the latest date of sailing, the ports, if any, to be touched at, and the probable date of arriving at Jeddah.

12. Any such master, owner, or agent, who refuses, or without lawful excuse omits, to give such information on

Penalty for refusal or omission to give such information.

demand, or furnishes false information, shall be liable to a fine which may extend to five

hundred rupees.

13. Any master, owner, or agent of any vessel carrying pilgrims, who shall issue any passage-ticket in excess of the

Penalty for issue of tickets in excess.

number allowed by the certificate granted under section ten of the Native Passenger

Ships Act, 1876(a), shall for every passage-ticket so issued be liable to a fine not exceeding four times the cost price of such ticket.

Passage-tickets how to be numbered.

14. All passage-tickets shall be numbered consecutively according to the order of issue;

and any master, owner or agent, who shall issue two or more tickets bearing

Penalty for issue of ticket bearing same number.

the same number, shall be liable to a fine not exceeding one thousand rupees.

S. 13 (a).—The reference must now be taken as made to the corresponding section of the Native Passenger Ships Act, 1887. See S. 4 of Act X. of 1887.

15. The provisions of sections thirty-nine, forty and forty-two of the Provisions of Native Passenger Ships Act, 1876(a), to apply to offences and penalties. Native Passenger Ships Act, 1876(a), shall apply to all offences punishable, and to all penalties leviable, under this Act.

16. The penalties to which masters and owners of vessels are made liable by this Act shall be enforced only by information laid at the instance of the Commissioner. Penalties to be enforced only at the instance of the Commissioner.

Bombay Act No. III. of 1887.

PUBLISHED BY THE GOVERNOR OF BOMBAY ON THE 31ST OCTOBER, 1887.

An Act to amend the Law for the periodical inspection and the management by competent Engineers of Boilers and Prime Movers in the Presidency of Bombay.

WHEREAS it is expedient to amend the law for the inspection and management of steam-boilers, and of prime movers ; It is enacted as follows :—

Preamble.

Preliminary.

Short Title.

1. This Act may be cited as “The Bombay Boiler Inspection Act, 1887.”

It shall come into force at once in the city of Bombay and in the districts and places in which the Boiler Inspection Act, 1873, is at present in force, and may be extended from time to time by the Governor in Council, by notification in the *Bombay Government Gazette*, to any other district or place in the presidency of Bombay that he shall deem fit.

But nothing in this Act shall be deemed to apply to any boiler or prime mover in any steam-vessel, or to any locomotive engine used upon any railway, or to any boiler or prime mover appertaining to a railway, or used exclusively for domestic purposes.

Repeal of Bombay Act V. of 1873. 2. The Boiler Inspection Act, 1873, is hereby repealed :

Provided that nothing in this Act shall affect the validity, according to its tenor, of any certificate granted under the said Boiler Inspection Act, 1873. Every such certificate shall, for all the purposes of this Act, be deemed to have been granted, and to be in force, under the corresponding provisions of this Act.

Proviso.

Definition of terms.

3. In this Act, unless there be something repugnant in the subject or context :

“Boiler.”

(1) “boiler” includes any cylinder or vessel for generating steam under pressure ;

S. 15 (a).—The reference must now be taken as made to the corresponding sections of the Native Passenger Ships Act, 1887. See S. 4 of Act X. of 1837.

(2) "prime mover" includes any steam-engine, steam-hammer, fly-wheel, first driving-shaft or pulley attached to any such engine, and every appurtenance necessary for the safe and efficient working of a prime mover ;

"Prime mover."

(3) "owner" includes any agent or hirer using any boiler.

"Owner."

Inspection of Boilers.

4. Government may from time to time appoint one or more inspectors for the purposes of this Act, who shall be removable at the pleasure of Government.

Appointment of inspectors.

The local extent of each such inspector's duties shall be fixed from time to time by Government.

Local extent of their duties.

Subject to such rules as may from time to time be framed by Government under section 31, the inspectors shall be under the control of the Collector of the place or district in which the boilers to be inspected by such inspectors are respectively situated.

Their subordination to the Collectors.

5. Government shall, as occasion may require, appoint commissions for hearing appeals preferred by owners under section 10, and for determining questions submitted to them under section 13. Such commissions shall consist of such person or persons as the Government shall deem fit to nominate, and their appointment shall endure for such term as shall be prescribed by Government.

Appointment of commission.

6. It shall not be lawful for the owner of any boiler :

Owner not to use a boiler without a certificate.

- (a) to use the same, or to permit the same to be used, unless a certificate shall have been duly granted in respect thereof in the manner hereinafter provided ; or
- (b) to continue to use the same, or to permit the use thereof to be continued, after the period for which any such certificate shall have been granted has expired ; or
- (c) to work the same, or to permit the same to be worked, at a higher pressure than that allowed by such certificate :

Provided that the owner of a boiler who holds in respect thereof a certificate as aforesaid, and who, before the expiry of the period of such certificate, gives notice under the next following section of his intention to continue to use the same after the expiry of the said period, may continue to use the same or to permit the use thereof until it is inspected in pursuance of such notice.

Proviso.

7. The owner of any boiler who does not hold in respect thereof a certificate as aforesaid which is at the time in

On notice from owner an inspector to examine boiler.

force, shall, if such boiler be situate in the city of Bombay, before using or continuing the use of the same, give notice to an inspector appointed under this Act for the said city of his intention to use or to continue to use the same.

The inspector to whom such notice is given shall appoint a time between sunrise and sunset and within four days after the receipt of such notice, for the inspection of such boiler, and at such time shall carefully examine such boiler and every appurtenance thereof.

If such boiler be situate elsewhere than in the city of Bombay, the owner shall, before using or continuing the use of the same, give notice to the Collector of his intention to use or to continue to use the same, and the Collector shall cause an inspection and examination as aforesaid to be made by an inspector within ten days after the receipt of such notice, and shall inform the owner of the date on which the said inspection will take place.

If any notice given under this section relates to two or more boilers used for working one engine, the inspection of each such boiler shall be fixed to take place on a separate date.

Every person giving a notice under this section shall simultaneously pay the fees prescribed for the inspection by a rule made under section 31.

Necessary information must be furnished by owner, and necessary dispositions made for facilitating examination.

8. The owner or person in charge of any boiler so examined shall :

(1) afford to the inspector all reasonable facilities for such examination, and all such information as may reasonably be required by him ;

(2) previously arrange that,

(a) the boilers shall be empty and cool, and shall be cleaned inside and outside,

(b) fire-flues shall be swept,

(c) fire bars and fire-bridges shall be removed,

(d) blow-off and other cocks shall be cleared for the purpose of inspection and examination ; and

(3) if required by the inspector, cause any brick-work or masonry in contact with the boiler to be removed.

9. If the Inspector is satisfied that the boiler and all its appurtenances are in good condition, and if the requirements of section 24 are fulfilled in respect thereof, he shall give to the owner a certificate to that effect.

Inspector to give a certificate to the owner.

Every certificate so granted shall be renewed by the inspector from time to time, if he is satisfied, after re-inspecting the boiler and all its appurtenances under the

Renewal of certificates.

provisions of section 7, that the same are in good condition, and if the requirements of section 24 are fulfilled in respect thereof.

Every original or renewed certificate granted under this section shall be in the form of, and contain the particulars specified in, schedule A. Every such certificate shall be granted for such period not exceeding twelve months as the owner of the boiler shall desire, unless it shall appear to the inspector improbable that the boiler and its appurtenances will remain in good condition for so long a period, in which case the certificate shall be granted for such shorter period as the inspector in his discretion deems fit.

10. If an inspector refuse to give a certificate or a renewed certificate to the owner of any boiler, or refuse to give the same for the full period applied for, he shall be bound to give to such owner, within twenty-four hours, his reasons for such refusal, in writing; and any owner aggrieved by the decision of the inspector, may, within one month from the date of the said refusal, lodge with the Collector an appeal to be heard by a commission appointed under section 5.

11. The owner's petition of appeal shall be forthwith forwarded by the Collector to the commission, and the said commission shall, within four days after the date of the receipt of the same, if the boiler be situated in the city of Bombay, and within ten days after the date of its receipt, if the boiler be situated elsewhere, inquire into and determine such appeal.

The commission may either reject the appeal or grant the owner a certificate for such period not exceeding twelve months as it thinks fit.

The inquiry shall be held in public, and the decision of the commission shall be final.

12. If the commission is of opinion that the appeal is unfounded or frivolous, it may award any sum not exceeding one hundred and fifty rupees, to be paid by the owner as costs.

Any sum so awarded by the commission shall be recoverable by the Collector from the owner, as an arrear of land-revenue.

13. Any commission appointed under section 5 may revoke any certificate granted under section 9 or 11:

- (a) if any fee, lawfully due under this Act, shall not be paid after the same has been duly demanded, or
- (b) if there shall be reason to believe that such certificate has been fraudulently obtained or erroneously granted, or has been granted without sufficient inspection, or

- (c) if there shall be reason to believe that, since the granting of such certificate, the boiler in respect whereof it was granted has sustained injury or has ceased to be in good condition.

After such revocation, the boiler in respect whereof the certificate has

Fresh certificate may be granted after revocation of the first. been revoked, shall not again be used until a further inspection shall have been made and a certificate granted by the inspector with the countersignature of the said commission, or, if the commission consists of more than two persons, of a majority thereof.

14. It shall be lawful for an inspector, at any time between sunrise and

Inspector may examine a boiler for which certificate has been granted at any time. sunset on any day during the period for which a certificate may have been granted under section 9, 11, or 13, to examine any boiler for which such certificate has been granted, in order to ascertain whether such boiler is still in good condition, and whether any cause exists for revoking the said certificate.

It shall be the duty of every owner or person in charge of a boiler to

Owner to report occurrence of accident to boiler. report to the inspector, within twelve hours of its occurrence, every accident to the boiler or to the machinery attached thereto, which is calculated to weaken the strength of such boiler or to render it liable to explode.

15. The owner of any boiler who shall have obtained a certificate there-

Owner to produce certificate when called upon. for, shall at all reasonable times during the period for which such certificate is in force, be bound to produce the same when called upon to do so by any Presidency Magistrate in the city of Bombay, or by the Collector elsewhere, or by any person authorized in writing by such Presidency Magistrate or Collector to demand its production.

Engineers' Certificates.

16. Examinations shall be held periodically, at such intervals and on

Examinations to be held for engineers. such dates as Government shall determine, of persons who desire to qualify as engineers for the management of boilers.

17. The Governor in Council shall from time to time nominate one or

Board of examiners to be appointed by Government. more competent persons to be members of the board of examiners for the said examinations. In no case shall an inspector appointed under this Act be a member of such board.

18. Every applicant for examination who is reported by the said board

Certificate of competency to be granted to successful candidate. to have passed an examination shall receive a certificate of competency in accordance with the board's report as to his qualifications, which shall be signed by the member or members of the board and by a Secretary to Government.

Certificates of competency shall be of different classes, and a certificate of each class shall qualify the holder thereof to manage or be in charge of a boiler of such capacity or kind as the Governor in Council may from time to time direct in the rules to be framed under section 31.

19. If any engineer is in possession of a certificate of competency granted by any competent authority in any other part of British India, or in the United Kingdom, or in any British colony, he shall be entitled to receive a certificate of competency as aforesaid without undergoing examination.

Government may from time to time determine what authorities shall be deemed competent for the purpose of this section.

The certificate granted under this section shall be of such class as the board of examiners, or a majority of the members of the said board, on a consideration of the nature of the certificate in the engineer's possession, shall recommend.

20. If by means of any inquiry conducted under the provisions of this Act, it shall be established to the satisfaction of the Governor in Council that any engineer possessing a certificate of competency granted under section 18 or 19 is incompetent, or is addicted to drunkenness, or has been guilty of any serious misconduct or negligence, the Governor in Council may cancel such certificate, or suspend the same for such time as he shall deem fit.

21. A duplicate of every certificate of competency granted under this Act shall be kept and recorded in such manner as the Governor in Council shall direct; and all orders made under the last preceding section for cancelling or suspending any certificate shall be from time to time entered on the record containing such duplicates.

22. Whenever any engineer proves to the satisfaction of the Governor in Council that he has, without fault on his part, lost or been deprived of any certificate granted to him under this Act, a duplicate of the certificate to which by the record so kept as aforesaid he appears to be entitled, shall be furnished to him, which shall have for all purposes the same validity as the original certificate.

23. No person who does not possess a certificate of competency granted under section 18, 19, or 22, shall be deemed a fit and proper person to manage or be in charge of a boiler; and no holder of any such certificate shall be deemed a fit and proper person to manage or be in charge of any boiler except to the extent of his qualification indicated by his said certificate.

24. No certificate shall be granted under section 9, 11, or 13 for any boiler, unless the owner of the same shall have in his employ as engineer in direct and immediate supervision thereof, a person who is a fit and proper person to manage or be in charge of the same.

Penalties.

25. Any owner or person in charge of a boiler who fails to report to the inspector, as required by section 14, any accident of the kind mentioned in that section to such boiler or to the machinery attached thereto, and

any owner of a boiler who refuses or neglects to produce the certificate for refusing to produce certificate. which he has obtained therefor, when duly called upon so to do under section 15,

shall, for every such omission, refusal or neglect, be punished with fine which may extend to one hundred rupees.

26. The owner of any boiler who shall use the same or permit it to be used, without a certificate duly obtained and in force in respect thereof,

and any such owner or any engineer who shall work the same, or permit it to be worked, at a higher pressure than that allowed by any certificate duly obtained and in force in respect thereof,

shall be punished with fine which may extend to one hundred rupees for every day or part of a day that he shall so use or work the said boiler, or permit the same to be so used or worked;

and if the said owner or engineer shall continue so to use or work the boiler, or to permit the same to be so used or worked after such fine shall have been imposed, he shall be held to have committed a separate offence, and shall be punished with a further fine which may extend to one hundred rupees for each day or part of a day after the first conviction during which the offence is continued, and in like manner after each subsequent conviction.

27. Any owner of a boiler who knowingly places or permits to be placed in management or charge of such boiler any person who is not a fit and proper person for the management or charge of the same, shall be punished with fine which may extend to five hundred rupees.

28. All offences against this Act shall be cognizable in the city of Bombay by a Presidency Magistrate, and elsewhere by a Magistrate of the First Class.

29. No charge shall be brought against any person of any offence punishable under this Act, except within six months after the commission of the offence, nor

shall any such charge be brought except with the sanction or under the direction of the Collector.

30. No proceeding shall be taken to enforce the penalties mentioned in sections 26 and 27, nor shall section 24 take effect in any district or place in which the Boiler Inspection Act, 1873, is not now in force, before such day after this Act shall have been extended to such district or place as Government shall fix by notification in the *Bombay Government Gazette*.

Miscellaneous.

Rules to be framed.

31. Government may from time to time frame rules not inconsistent with this Act, for

- (a) settling the duties and emoluments of commissions, inspectors and examiners appointed under this Act, and regulating the control to be exercised by Collectors over inspectors;
- (b) fixing the fees to be levied for inspection of boilers under section 7 at such rates not exceeding those prescribed in schedule B as Government thinks fit;
- (c) regulating the conduct of the examinations to be held under section 16;
- (d) prescribing the qualifications to be required of candidates at the said examinations, the fees to be paid by them, the forms of the certificates to be granted to them, and the capacity or kind of boiler of which each such certificate shall qualify the holder thereof to be in charge.

All rules so framed may from time to time be varied, or cancelled, by Government, and shall be published in the *Bombay Government Gazette*, and when so published shall, until cancelled or varied, have the force of law.

32. All fees, costs and penalties levied under this Act shall be disposed of in such manner as Government shall from time to time direct.

Certain provisions of this Act may be applied to prime movers. 33. The Governor in Council may, from time to time, by notification in the *Bombay Government Gazette*:

- (a) apply so much of this Act as relates to the taking out and grant, of certificates for and the inspection of boilers, to prime movers generally, or to prime movers of any particular class, in any place or district in which this Act is at the time in force, and
- (b) cancel any such notification.

During such period as any notification under the above clause (a) is in force in any place or district, the provisions of this Act thereby made appli-

S. 31.—For rules made for the city of Bombay, see G. G. 1888, p. 516; *Ib.* 1889, p. 47.

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cable to prime movers shall be read and understood in such place or district as if the word “boiler” included the words “prime mover” wherever used therein.

SCHEDULE A. (see Section 9).

Form of Inspector's Certificate.

Name of owner.	Description of boiler and age.	Power.	When and where made.	When and where last repaired.	Time for which boiler is to be used and certificate to be in force, and maximum pressure at which the boiler may be worked.	Remarks.

I, the undersigned, certify that I have examined the above-named boiler, and to the best of my judgment the boiler, as shown in the above statement, and all its necessary appurtenances, are in good condition.

A. B., Inspector.

SCHEDULE B. (see Section 31).

Maximum Rates of Fees leviable for Inspections of Boilers under section 7.

(1)	For the inspection of each boiler attached to a prime mover not exceeding 10 horse power nominal	... Rs.	15
(2)	Ditto ditto exceeding 10 but not exceeding 20 ditto ...	... „	20
(3)	Ditto ditto exceeding 20 but not exceeding 30 ditto ...	... „	30
(4)	Ditto ditto exceeding 30 but not exceeding 50 ditto ...	... „	40
(5)	Ditto ditto exceeding 50 ditto ...	... „	50

*Amended by Bom I/99
act 11/11 95 20/10*

Bombay Act No. IV. of 1887.

PUBLISHED BY THE GOVERNOR OF BOMBAY ON THE 5TH JANUARY, 1888.

An Act to consolidate and amend the law for the prevention of Gambling in the Presidency of Bombay.

WHEREAS it is expedient to consolidate and amend the law for the prevention of Gambling in the Presidency of Bombay: It is enacted as follows:—

Short Title.

1. This Act may be cited as ‘The Bombay Prevention of Gambling Act, 1887.’

It extends to the city of Bombay, to the island of Sálsette, to all railway station-houses without the said city and island and to all places not more than three miles^(a)

Extent.

distant from any part of such station-houses, respectively, and all or any of its provisions may be extended from time to time by the Governor in Council, by an order published in the *Bombay Government Gazette*, to any local area in the presidency of Bombay.

The Governor in Council may from time to time, by an order published as aforesaid, cancel or vary any order made by him under this section.

Repeal of enactments.

2. ~~The enactments mentioned in the schedule are repealed to the extent specified in the third column thereof.~~

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3. In this Act "common gaming-house" means a house, room or place, in which cards, dice, tables or other instruments of gaming are kept or used for the profit or gain of the person owning, occupying, using or keeping such house, room, or place, whether by a charge for the use of the instruments of gaming or of the house, room, or place or otherwise howsoever.

"Common gaming-house" defined.

Keeping common gaming-house.

4. Whoever :

27 has definition added by Bm 7/90
S. 1

- (a) being the owner or occupier or having the use of any house, room, or place, opens, keeps or uses the same for the purpose of a common gaming-house,
- (b) being the owner or occupier of any such house, room, or place, knowingly or wilfully permits the same to be opened, occupied, kept or used by any other person for the purpose aforesaid,
- (c) has the care or management of, or in any manner assists in conducting, the business of any such house, room, or place, opened, occupied, kept or used for the purpose aforesaid,
- (d) advances or furnishes money for the purpose of gaming with persons frequenting any such house, room, or place,

shall be punished with fine which may extend to five hundred rupees, or with imprisonment which may extend to three months.

5. Whoever is found in any common gaming-house, playing or gaming with cards, dice, counters or other instruments of gaming, or is found there present for the purpose of gaming, whether by playing for any money, wager, stake or otherwise, shall be punished with fine which may extend to two hundred rupees, or with imprisonment which may extend to one month.

Gaming in common gaming-house.

Any person found in any common gaming-house during any gaming or playing therein, shall be presumed, until the contrary be made to appear, to have been there for the purpose of gaming.

6. It shall be lawful for the Commissioner of Police in the city of Bombay, and elsewhere for any Magistrate of the first class or any District Superintendent of Police or for any Assistant Superintendent empowered by Government in this behalf, upon any complaint made before him on oath that there is reason to suspect any house, room, or place to be used as a common gaming-house, and upon satisfying himself after such enquiry as he may think necessary that there are good grounds for such suspicion, to give authority, by special warrant under his hand, when in his discretion he shall think fit, to any inspector, or other superior officer of Police of not less rank than a chief constable,

(a) to enter, with the assistance of such persons as may be found necessary, by night or by day, and by force if necessary, any such house, room, or place, and

(b) to take into custody and bring before a Magistrate all persons whom he finds therein, whether they are then actually gaming or not, and

(c) to seize all instruments of gaming, and all moneys and securities for money, and articles of value reasonably suspected to have been used or intended to be used for the purpose of gaming, which are found therein, and

(d) to search all parts of the house, room, or place, which he shall have so entered, when he shall have reason to believe that any instruments of gaming are concealed therein, and also the persons of those whom he shall so find therein or take into custody; and to seize and take possession of all instruments of gaming found upon such search.

7. When any cards, dice, gaming-table, counters, cloth, board or other instruments of gaming used in playing any game, not being a game of mere skill, are found in any house, room, or place entered under warrant issued under the provisions of the last preceding section or about the person of any of those who are found therein, it shall be evidence, until the contrary is made to appear, that such house, room, or place is used as a common gaming-house, and that the persons found therein were there present for the purpose of gaming, although no play was actually seen by the Magistrate or Police officer or by any person acting under the authority of either of them.

8. On conviction of any person for opening, keeping or using a common gaming-house, or playing or gaming therein, or being present therein for the purpose of gaming, the convicting Magistrate may order all the instruments of gaming found therein, or on the persons of those who were found therein, to be forthwith destroyed ;

and may also order all or any of the securities for money and other articles seized, not being instruments of gaming, to be sold and the proceeds thereof, with all moneys seized therein, to be forfeited ; or, in his discretion, may order any part of such proceeds and other moneys to be paid to any person appearing to be entitled thereto.

9. It shall not be necessary, in order to convict a person of any offence against any of the provisions of sections 4 and 5, to prove that any person found playing at any game was playing for any money, wager or stake.

10. Every person who shall have been concerned in any gaming contrary to this Act, and who shall be examined as a witness by or before a Magistrate on the trial of any charge against the owner, keeper or occupier or other person having the care or management of any common gaming-house, touching such gaming, and who upon such examination shall make true and faithful discovery to the best of his knowledge of all things as to which he shall be so examined, and who shall thereupon receive from the said Magistrate a certificate in writing to that effect, shall be freed from all prosecutions under this Act for anything done before that time in respect of such gaming.

11. The Magistrate trying any case under the provisions of sections 4 and 5 may direct any portion, not exceeding one-fourth of any fine which may be levied under either of the said sections, or any part of the proceeds of articles or moneys seized and ordered to be forfeited under section 8, to be paid to an informer.

Power to arrest without warrant for gaming, and setting birds and animals to fight, in public streets.

12. A Police-officer may apprehend without warrant :

(a) any person found playing for money or other valuable thing with cards, dice, counters or other instruments of gaming used in playing any game, not being a game of mere skill, in any public street, place or thoroughfare ;

(b) any person setting any birds or animals to fight in any public street, place or thoroughfare ;

(c) any person there present aiding and abetting such public fighting of birds and animals.

Any such person shall, on conviction, be punished with fine which may extend to fifty rupees, or with imprisonment which may extend to one month.

And such Police-officer may seize all birds and animals and instruments of gaming found in such public street, place or thoroughfare or on the person of those whom he shall so arrest, and the Magistrate may, on conviction of the offender, order such instruments to be forthwith destroyed, and such birds and animals to be sold and the proceeds forfeited.

13. Nothing in this Act shall be held to apply to any game of mere skill wherever played.

Saving of games of mere skill.

SCHEDULE—(see Section 2.)

Enactments repealed.

Enactments.	Subject.	Extent of repeal.
Act XIII. of 1856 ...	For regulating the Police of the towns of Calcutta, Madras and Bombay.	Sections 56, 57, 58, 60, 61, 62, 63, 65, and 66.
Act XLVIII. of 1860 ...	To amend Act XIII. of 1856....	Section 15.
Bombay Act III. of 1866.	For the prevention of gambling.	The whole Act, so far as the same has not been already repealed.

Bombay Act No. V. of 1887.

PUBLISHED BY THE GOVERNOR OF BOMBAY ON THE 12TH JANUARY, 1888.

An Act to amend Bombay Act No. VI. of 1863.

WHEREAS it is expedient to amend Bombay Act No. VI. of 1863 (*an Act for the regulation of Public Conveyances in the Town, Suburbs and Harbour of Bombay*) for the purpose, principally, of enabling Government to extend its provisions as well to vehicles which do not, as to those which do, ply for hire in any town or place, other than the city of Bombay: It is enacted as follows:—

Amendment of Bombay Act VI. of 1863, section 34.

1. The following paragraphs shall be added to section 34 of the said Act, namely:—

“The Governor in Council may, by an order published as aforesaid, direct that, in any town or place to which he extends or has extended the provisions of this Act :

“(a) all or any of the said provisions shall apply to all vehicles, or to any class of vehicles, which are kept, or ordinarily let, for hire, although such vehicles be not used for the purpose of plying for hire ;

“(b) any class of vehicles shall be exempt from all or any of the said provisions.

“In this section the word ‘place’ shall be deemed to include, and to have always included, a road between two towns or places.”

Bombay Act No. VI. of 1887.

PUBLISHED BY THE GOVERNOR OF BOMBAY ON THE 30TH JANUARY, 1888.

An Act to amend the Bombay Hereditary Offices Act so far as it relates to Matádárs.

WHEREAS some portions of the Bombay Hereditary Offices Act are found to be unsuited to matádárs, and it is therefore expedient to amend the said Act and to enact special provisions for the regulation of the service of matádárs : It is enacted as follows :—

Short title.

1. This Act may be cited as “The Matádárs Act, 1887.”

It extends to the districts of Ahmedabad, Kaira, Broach and Surat ; but the Governor in Council may, from time

Extent.

to time, by notification in the *Bombay Government Gazette*, extend its provisions to any village in the Panch Maháls district.

It shall come into force at once : Provided that every appointment to any patel's office to which this Act applies, made

Commencement.

under the provisions of the Bombay Hereditary Offices Act, or of Act No. XI. of 1843 (*an Act for regulating the service of hereditary officers under the Presidency of Bombay*), and still in force, shall hold good :

(a) until the time when, if this Act had not been passed, such appointment would become vacant, or until the expiry of two years from the coming of this Act into force, whichever first occurs, or

(b) in the case of an appointment which has been made to have effect pending further orders, until such time as the Collector directs ;

and a fresh appointment under this Act in lieu of any such appointment as aforesaid shall only be made to have effect from the time when the latter appointment ceases to hold good.

Interpretation.

2. In this Act, unless there be something repugnant in the subject or context :

(1) "matádár family" means a family to which the office of village patel, or some share in the discharge of the duties or in the exercise of the powers ordinarily appertaining to that office, belongs hereditarily ;

"Mata." (2) "mata" means the aggregate of the rights, privileges and responsibilities vesting in a matádár family as such ;

(3) "Member of a matádár family" does not include a female, or a person claiming through a female, whilst such female or person is, under section two of Act No. V. of 1886 (*an Act to amend Bombay Act III. of 1874*), postponed in the order of succession to the mata, or part thereof or interest therein, to a male member of the family ;

(4) "matádár" means a member of a matádár family whose name is entered in the register kept under section 5, and includes a representative matádár ;

(5) "representative matádár" means a member of a matádár family whose name is entered as a representative matádár in the said register ;

(6) "senior heir" means the heir who first acquired the right of inheritance, whether by birth, marriage or otherwise ;

(7) any word or expression which is defined in the Bombay Land Revenue Code, 1879, and is not hereinbefore defined, shall have the meaning given to it by that Code.

Expressions defined in the Bombay Land Revenue Code.

3. In applying the Bombay Hereditary Offices Act as amended by Bombay Act No. V. of 1886 (*an Act to amend Bombay Act III. of 1874*), and section two of the last mentioned Act to matádárs, the term "watan" shall be deemed to mean all and each of the matas of a village, and a member of a matádár family shall be deemed to be a watandár, and the said Act, as so amended, shall be read subject to the following modifications (namely) :

(1) sections 24 to 31, both inclusive, 36 to 59, both inclusive, 61, 62, 67, 69, 71 and clause (2) of section 73, and so much of section 73 as relates to

orders passed under Part VI. or Part VII. or section 58 of the said Act, and in section 4 the definitions of "watandár" and "representative watandár", shall be deemed to be repealed;

(2) in sections 33 and 34, the words "the coming into force of this Act" shall be taken to mean the coming into force of this present Act, and the word "matádár" shall be substituted for the words "registered representative watandár and "watandár," wherever they respectively occur;

(3) For the first four words of section 60, the words "when any person elected to officiate or a representative matádár" shall be deemed to be substituted.

This Act and Bombay Act III. of 1874 to be read as one.

4. Subject to the provisions of the last preceding section, this Act shall be read as one with the Bombay Hereditary Offices Act.

Of the Register.

5. In the register of lands and allowances in consideration of which liability to perform service still exists, kept under section 65 of the Bombay Hereditary Offices Act, the Collector shall specify for every village in which there are matádárs:

Matádárs' service-register what to contain.

- (a) the number of distinct matádár families in the village separately recognized in the Collector's records;
- (b) the name of the representative matádár of each matádár family to which a right to hold the office of patel appertains;
- (c) the name of every other person directed by the Collector to be entered in the register under section 7 or 9;
- (d) where there are more representative matádárs than one, the order of rotation in which, failing the appointment of an officiator by election, the right to the patel's office is to vest in the said representative matádárs;
- (e) the number of persons required to officiate as patels contemporaneously;
- (f) a description of the service lands held by each matádár family, showing the area, survey numbers and the assessment thereof, together with the quit-rent, if any, payable, and the net amount of revenue alienated by Government;
- (g) the amount and nature of the cash or other allowances, if any, held by each matádár family;
- (h) the watan property or profits assigned under section 23 of the Bombay Hereditary Offices Act for the emoluments of officiators;
- (i) such other particulars as Government from time to time direct.

The said register shall be amended from time to time whenever any change is made in any of the particulars therein specified in accordance with the provisions of this Act or of the Bombay Hereditary Offices Act.

6. In every village in which there are two or more distinct matádár families separately recognized in the Collector's records, a right to hold the office of patel shall ordinarily be deemed to appertain to each of the said families :

Right to patel's office to appertain ordinarily to every matádár family; but

Provided that it shall be competent to the Governor in Council to declare, if, upon consideration of the past history of the tenure of the office in any village, and of the circumstances, so far as known, under which the village was founded, it shall appear to him equitable so to do, that the right to the patel's office in such village appertains exclusively to one matádár family, and every such declaration shall be conclusive evidence of the exclusive right thereby affirmed.

exclusive right may be declared by Government to appertain to one matádár family.

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7. In the register prepared under section 5 the Collector shall enter the name of every member of a matádár family contained in any list of matádárs made under the orders of Government subsequent to the year 1866: Provided that—

Determination of matádárs.

(a) if, for any village, no such list exists, or if, in respect of any matádár family, no person's name has been entered in any such list, or if, at the time when this Act comes into force, there is any dispute pending as to the completeness or correctness of any such entry, the Collector shall hold a summary inquiry, and shall enter in the register the name of each member of a matádár family who shall appear to him to have been recognized in the records previous to the year 1867 as a matádár of the family for which such list or entry is wanting, or to which such dispute relates ;

(b) If any person whose name should be entered in the register in accordance with any of the foregoing provisions is dead, the name of the heir next in succession, or, if there are two or more heirs of equal degree, the name of the senior heir, shall, subject to the provisions of section two of Bombay Act No. V. of 1886 (*an Act to amend Bombay Act III. of 1874*), be entered in the register instead of his.

8. (1) The name of one matádár shall be entered in the said register as the representative matádár of each matádár family to which a right to hold the office of patel appertains.

Determination of representative matádárs.

(2) For every such matádár family of which there is only one matádár, the said matádár shall be the representative matádár.

(3) If there are two or more matádárs of any such matádár family, the Collector shall, as soon as may be after the passing of this Act, enter in the said register as representative matádár of the matádár family, such one of the said matádárs as shall appear to him to be the head of the matádár family.

9. On the death of a representative or other matádár, the fact shall be reported by the village officers to the Collector, and the name of the heir next in succession, or, if there are two or more heirs of equal degree, the name of the senior heir, shall, subject to the provisions of section two of Bombay Act No. V. of 1886 (*an Act to amend Bombay Act III. of 1874*), be registered in his stead.

10. If at any time any person shall by production of a certificate of heirship, or of a decree or order of a competent court, satisfy the Collector that he is entitled to have his name registered under section 7 (b) or section 9 in preference to the person whose name the Collector has ordered to be registered, the Collector shall cause the entry in the register to be amended accordingly.

Of Service.

11. Every matádár shall be bound, when so required by the Collector, to perform the duties customarily discharged by matádárs, and shall have the privilege of signing the abstract of village-lands and revenues, and such other village records as it may be customary for matádárs to sign.

12. If within the limits of any village in which there are matádárs a new village or hamlet has been, or shall hereafter at any time be, formed, it shall be competent to the Collector, with the previous sanction of Government, to exclude the limits of such new village or hamlet from the area to which the functions of the said matádárs extend.

Number of officiators requisite for patel's office to be fixed by the Collector.

every patel's office.

13. The Collector may fix at his discretion, from time to time, the number of officiators requisite for the due discharge of the duties of

14. In every village in which the Governor in Council, ^{makes a} ~~declares~~ under section 6, ^{that} the right to the patel's office ^{shall vest in} appertains exclusively to one matádár family, ^{as the case may be} the said right shall vest in the representative ^{matádár of that matádár family alone if such right} ~~matádár of that matádár family alone~~ ^{family whose right are thereby declared} ~~family~~ ^{as in each case as may be determined.}

In every other case right of office to be enjoyed by matádár families in rotation.

15. In every other village, the right to the patel's office shall vest in each of the matádár families entitled thereto in rotation.

16. For the purpose of determining the order in which the said right shall vest in the said families, the Collector shall, as soon as may be after this Act comes into force, by written notice, require the matádárs of the village to assemble in his presence.

Determination of order of rotation.

If a majority of the matádárs present in accordance with the said notice do not agree to some order of rotation, the order shall be forthwith determined by the Collector by lot, in the presence of the assembled matádárs, in such manner as he shall think fit:

On failure of majority of matádárs to agree, Collector to determine order by lot.

Provided that if in the course of any proceeding held under the Bombay Hereditary Offices Act, an order of rotation for service of the representative watandárs of the same families has been already settled by lot or by agreement of the parties, the order so settled shall hold good for the purpose of the last preceding section.

Proviso.

17. On or in anticipation of the occurrence of a vacancy in the office of patel, in any village to which section 15 applies, the matádárs of the village may elect some member of the matádár family whose turn it is to enjoy the right of office to fill the vacancy.

When officiator may be elected by matádárs.

If a majority of the said matádárs fail, within such reasonable period as shall be prescribed by the Collector in this behalf, to nominate some member of the matádár family aforesaid for the vacancy, or if the person nominated is disqualified for office, the right of office shall vest in the representative matádár of the said family.

Failing election of officiator by matádárs, right of office to vest in representative matádár.

18. Elections under the last preceding section shall be held in accordance with such rules(a) as the Governor in Council, by notification in the *Bombay Government Gazette*, from time to time, prescribes in this behalf.

Rules for elections to be prescribed by Government.

19. Every representative matádár in whom the right of office vests under section 14 or 17, shall ordinarily be required by the Collector, if he is not disqualified for office, to officiate in person, but the Collector may, if he thinks fit, dispense with his personal service.

Representative matádár must ordinarily officiate in person.

If, in any village to which section 15 applies, the representative matádár of the family whose turn it is to enjoy the right of office declines, when so required by the Collector, to officiate in person, the turn to enjoy the said right shall pass to the matádár family next in the settled order of rotation.

A representative matádár who declines, whilst officiating, to forsake some other employment which, in the opinion of the Collector, is incompatible with the due discharge of the duties of the patel's office, or fails when so required by the Collector to reside in the village for which he is appointed, shall be deemed to decline to officiate in person.

When a deputy may be appointed by a representative matádár. 20. A deputy may be appointed at any time :

- (a) by a representative matádár who is, or who whilst officiating in person becomes, disqualified for office ; and
- (b) with the Collector's permission, by a representative matádár who does not wish to officiate or to continue to officiate in person, although not disqualified for office ; and
- (c) by a sole representative matádár, who proposes to officiate or is already officiating in person, when one or more other officiators are necessary.

A deputy appointed by a representative matádár may at any time be removed from office by the Collector at the request of the representative matádár, if in the opinion of the Collector there are good reasons for such request.

21. When an appointment of a deputy has to be made by a representative matádár, the Collector shall, by written notice, require him to nominate a fit person to be his deputy within twenty days from the date of service of the said notice.

Should the representative matádár fail, within the said period, to nominate any person, or if the person he nominates is not a member of a matádár family of the same village, or is disqualified for office, the Collector may, in his discretion, extend the period of nomination for a further term of ten days.

If within the prescribed period of twenty days, or, when the Collector extends the period, within the extended term, no person is nominated by the representative matádár, or the person nominated by him is not a member of a matádár family of the same village, or is disqualified for office, the turn to enjoy the right of office shall, in a village to which section 15 applies, pass to the matádár family next in the settled order of rotation.

22. If a sole representative matádár declines, when so required by the Collector, to officiate in person, or fails to appoint a fit person to be his deputy in accordance with the provisions of the last preceding section, the Collector shall appoint a deputy.

Appointment of deputy when to be made by the Collector.

Such deputy ordinarily to be member of a matádár family; but with sanction of Government may be any other person.

may be any other person.

A deputy so appointed by the Collector shall ordinarily be a member of a matádár family of the village for which he is appointed, but, with the previous sanction of Government,

23. If a matádár is under eighteen years of age, or is disabled by lunacy or imbecility of mind, the guardian or other legal curator of his person may act in his behalf in any of the matters provided for in sections 16, 17, 20 and 21.

Guardian may act on behalf of a matádár legally incompetent.

24. The term of office of a sole representative matádár shall be for life, if the representative matádár shall not in the meantime become disqualified for office.

Term of office of a sole representative matádár ; and

The term of office of a person elected under section 17 shall be for five years, or for such longer period as a majority of the matádárs shall, at the time of election, desire, if the person elected shall not in the meantime die or become disqualified for office.

The desire of the matádárs as to the duration of the term of office of any person elected by them under section 17, shall be ascertained in accordance with the rules prescribed under section 18 for determining nominations.

Term of office of a representative matádár entitled to office on failure of election.

25. The term of office of a representative matádár in whom the right of office vests on failure of an election under section 17, shall be :—

- (a) five years, when the number of representative matádárs exceeds nine ;
- (b) seven years, when the number of representative matádárs exceeds four but does not exceed nine ;
- (c) ten years, when the number of representative matádárs does not exceed four.

26. A deputy appointed by a representative matádár, or by the Collector in his stead, shall be appointed for the term, or for the residue of the term, of office of the representative matádár by or for whom he is so appointed ; and if a deputy dies or resigns or becomes disqualified for

Deputies to be appointed for the period of their principals' term of office.

office during the said term, another deputy may be appointed for the residue of the said term in accordance with the provisions of sections 21 and 22 :

Provided that—

- (a) if a representative matádár who has appointed a deputy because he himself was disqualified for office, or because he did not wish to officiate in person, subsequently at any time during his term of office wishes to officiate in person, he may, if he is not then disqualified for office, be permitted so to do by the Collector ;
- (b) if a representative matádár dies during his term of office, the deputy, if any, officiating in his stead shall cease to officiate, and the successor of the representative matádár shall, subject to the provisions of section 19, officiate in person for the residue of the said term, or a deputy shall be appointed by him or by the Collector in his stead for the said period, according to the provisions of sections 20, 21 and 22.

27. Notwithstanding anything hereinbefore contained to the contrary,

No change of officiator to be permitted during the last year of a representative matádár's term of office.

no representative matádár in any village to which section 15 applies shall be permitted to commence to officiate in person, and no new deputy shall be appointed by or for a representative matádár in any such village during the last year of the term of office of such representative matádár.

If occasion arises for any such change, office to be deemed vacant.

If occasion arises during any such year for any change of an officiator in any such village, there shall be deemed to be a vacancy in the office.

28. During any interval between the occurrence of a vacancy in a patel's office and its being filled up in accordance with the foregoing provisions, and during

Appointment of temporary officers by the Collector.

the time that any officiator is suspended, the Collector may appoint such person as he thinks fit, whether a member of a matádár family of the village or not, to officiate temporarily.

29. If an officiator is temporarily absent from his village, or is temporarily prevented by illness from discharging

Officers to retain substitutes during their absence or illness.

the duties of his office, he may depute some other fit person, whether a member of a matádár family of the village or not, to perform the said duties, but shall be responsible for the acts and omissions of the person so deputed as if they were his own acts and omissions.

Of the Disqualifications for the Patel's Office.

What persons are to be deemed disqualified for office. 30. The following persons shall be deemed to be disqualified for the patel's office (namely) :

- (a) females ;
- (b) persons under eighteen years of age ;
- (c) any person who has not passed such educational test, if any, as Government think fit, from time to time, to prescribe in this behalf ;
- (d) any person who has attained sixty years of age, except when such person's appointment or further continuance in office is specially permitted by the Collector ;
- (e) any person who, in the opinion of the Collector, is disabled by lunacy or imbecility of mind, or by deafness, blindness, or other permanent infirmity of body ;
- (f) any person who, at the time when he would otherwise be entitled to officiate, is adjudged by the Collector, after a summary inquiry, to be of general bad character ;
- (g) any person who has been sentenced by a criminal court to imprisonment or whipping for an offence punishable with imprisonment for a term exceeding six months, or to transportation, such sentence not having subsequently been reversed or quashed, and whose disqualification on account of such sentence has not been removed by an order which the Governor in Council is hereby empowered to make, if he shall think fit, in this behalf ;
- (h) any person removed from office under section 31, except when such person's re-employment is expressly sanctioned by Government.

Any officiator who during his term of office becomes disqualified for any of the above reasons shall cease to officiate.

Of Penalties.

31. Any matádár who shall neglect or refuse to comply with any order made by the Collector under section 11, and any matádár or officiator who shall be careless or negligent in the discharge of his duties, may be punished by the Collector, for each such offence, by fine which may extend to one-fourth part of the annual emoluments of such matádár or officiator.

If an officiator shall be accused of any misconduct which shall seem to the Collector to require a severer punishment than that aforesaid, the Collector may suspend him from office during investigation into such accusation, and, after holding a summary inquiry, may, if he consider the officiator guilty of misconduct meriting such punishment, suspend him from

office for a further period not exceeding six months, or, if fraud or wilful framing of incorrect records or other grave misconduct or offence is proved against him, may, with the previous sanction of Government, remove him from office.

When a representative matádár has been so removed from office, he shall, if Government so direct, be deprived for the rest of his life of any right which he would otherwise have of voting at an election of an officiator, or of appointing a deputy to officiate; and if any representative matádár so deprived is a sole representative matádár, a deputy shall be appointed by the Collector, subject to the provisions of paragraph two of section 22, to officiate in his stead during his lifetime.

If any representative matádár or deputy is removed from office under this section, the Governor in Council may direct the forfeiture of the life interest in the mata of the representative matádár so removed from office, or of the representative matádár by whom the deputy so removed from office was appointed, as the case may be.

32. Nothing in the last preceding section shall affect the liability of an officiator to a criminal prosecution for any offence which he may be accused of having committed; and the Collector may suspend any officiator subjected to any such prosecution pending the inquiry and trial, and at its close may take the proceedings and the finding of the criminal court into his consideration for the purpose of dealing with the case under the last preceding section.

Bombay Act No. VII. of 1887.

PUBLISHED BY THE GOVERNOR OF BOMBAY ON THE 28TH APRIL, 1888.

An Act to declare and amend the Law relating to Toda Girás Allowances.

WHEREAS it is expedient to declare and amend the law relating to toda girás allowances; It is enacted as follows :—

Short title.

1. This Act may be called “The Toda Girás Allowances’ Act, 1887.”

2. In this Act, “toda girás allowance” means a cash payment made periodically to any person on the part of Government, or by or on the part of a holder of

“Toda girás allowance” defined. alienated land, under the name of *girás*, *wol*, *tora girás* or *toda girás*.

3. Every toda girás allowance is continuable hereditarily to the lineal male heirs in male descent of the first recipient thereof under British rule :

Toda girás allowances to be held hereditarily in male descent.

Provided that, on failure of such heirs, the allowance, or some portion thereof, shall, whenever the Governor in Council has already so directed, or shall hereafter so direct, be continuable hereditarily to the lineal male heirs in male descent of a brother of the first recipient of such allowance under British rule.

Proviso.

4. No mortgage, charge or alienation of a toda girás allowance, or of any part thereof, or of any interest therein, by any recipient of the same, shall be valid as to any time beyond such recipient's natural life.

Mortgage, &c., of toda girás allowance by any recipient thereof valid only for his life.

Exemption of toda girás allowances from attachment and sale in execution of decrees.

5. No toda girás allowance shall be liable to attachment or sale in execution of a decree :

Provided that any money due or likely to become due to a judgment-debtor on account of a toda girás allowance may be attached in execution of the decree against him, but such attachment shall not affect any money which becomes due on account of such allowance after such judgment-debtor's death.

Proviso.

Saving of toda girás allowances already alienated.

6. (1) Nothing in this Act applies to a toda girás allowance which has already been alienated :

- (a) If the instrument purporting or operating to effect such alienation has before the date on which this Act comes into force been registered under any law for the time being in force relating to the registration of documents ; or
- (b) If the said instrument, not being compulsorily registrable, and not having been registered under any such law as aforesaid, has been executed before the date on which this Act comes into force, and is presented for inspection, together with a copy thereof for record, at any time within six months after the said date, to the Collector of the district in which such allowance is payable ; or
- (c) If, when such alienation has not been effected by an instrument, proof thereof is produced within the period and to the Collector aforesaid.

(2) When any instrument is presented to a Collector under clause (b),

Collector how to proceed in respect of alienations notified to him under clauses (b) and (c).

he shall, before returning the same, endorse thereon, under his signature and official seal, the date of such presentation. When proof of an alienation is produced before a Collector under clause (c), he shall give to the alienee a certificate, under his signature and official seal, that the toda girás allowance so alienated is not subject to the provisions of this Act.

Act No. I. of 1888.

R. H/99 2279.
Sch II.RECEIVED THE ASSENT OF THE GOVERNOR GENERAL ON THE
27TH JANUARY, 1888.*An Act to amend the Indian Stamp Act, 1879.*

WHEREAS it is expedient to amend certain provisions of the Indian Stamp Act, 1879, relating to policies of insurance; It is hereby enacted as follows:—

Amendment of definition of "policy of insurance." 1. For clause (15) of section 3 of that Act the following shall be substituted, namely:—

"(15) 'Policy of insurance' means any instrument by which one person, in consideration of a premium, engages to indemnify another against loss, damage or liability arising from an unknown or contingent event;

"It includes a life-policy, and includes also any writing evidencing the renewal of, for the purpose of keeping in force, a policy of fire-insurance in respect of which, and of the previous renewal whereof (if any), there has not already been paid the stamp-duty which would have been chargeable if the policy had originally been granted for a longer term than six months."

New article substituted for article 49 of Schedule I. 2. For article 49 of the first schedule to that Act the following shall be substituted, namely:—

DESCRIPTION OF INSTRUMENT.		PROPER STAMP-DUTY.	
		If drawn singly.	If drawn in duplicate, for each part.
		Rs. A. P.	Rs. A. P.
49. POLICY OF INSURANCE. See Exemption, Schedule II. [No. 14 (a)].	(a) In the case of sea-insurance— Rs. When the amount insured does not exceed ... 1,000 And for every further sum of Rs. 1,000 or part thereof in excess of ... 1,000	0 4 0 0 4 0	0 2 0 0 2 0
	(b) In the case of fire-insurance— i. In respect of an original policy for a month or any shorter term— Rs. When the amount insured does not exceed ... 1,000 And for every further sum of Rs. 1,000 or part thereof in excess of ... 1,000	0 2 0 0 2 0	
	ii. In respect of an original policy for more than one month but not more than three months— Rs. When the amount insured does not exceed ... 1,000 And for every further sum of Rs. 1,000 or part thereof in excess of ... 1,000	0 3 0 0 3 0	

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.			
<p>49. POLICY OF INSURANCE —contd.</p> <p>iii. In respect of an original policy for more than three months but not more than six months—</p> <p style="text-align: right;">Rs.</p> <p>When the amount insured does not exceed ... 1,000</p> <p>And for every further sum of Rs. 1,000 or part thereof in excess of ... 1,000</p> <p>iv. In respect of an original policy for a longer term than six months—</p> <p style="text-align: right;">Rs.</p> <p>When the amount insured does not exceed ... 1,000</p> <p>And for every further sum of Rs. 1,000 or part thereof in excess of ... 1,000</p> <p>v. In respect of renewing, for the purpose of keeping in force, a policy which has been granted for six months or any shorter term and in respect of which, and of the previous renewal whereof (if any), there has not already been paid the duty which would have been chargeable if the policy had originally been granted for a longer term than six months</p>	<p style="text-align: center;">Rs. A. P.</p> <p style="text-align: center;">0 4 0</p> <p style="text-align: center;">0 4 0</p> <p style="text-align: center;">0 6 0</p> <p style="text-align: center;">0 6 0</p> <p>The same duty as would be payable in respect of an original policy for the amount and term to which the renewal extends; or the excess of the duty which would have been chargeable if the policy had originally been granted for a longer term than six months, over the duty already paid in respect of the policy, and of the previous renewal thereof (if any); whichever is the smaller sum.</p>			
	<table> <tr> <th data-bbox="721 1437 871 1472">If drawn singly.</th><th data-bbox="871 1437 1013 1472">If drawn in duplicate, for each part.</th></tr> <tr> <td data-bbox="721 1472 871 1612"> <p>(c) In the case of any other insurance—</p> <p style="text-align: right;">Rs.</p> <p>When the amount insured does not exceed ... 1,000</p> <p>And for every further sum of Rs. 1,000 or part thereof in excess of ... 1,000</p> </td><td data-bbox="871 1472 1013 1612"> <p style="text-align: right;">Rs. A. P.</p> <p style="text-align: right;">Rs. A. P.</p> <p style="text-align: center;">0 6 0</p> <p style="text-align: center;">0 3 0</p> <p style="text-align: center;">0 6 0</p> <p style="text-align: center;">0 3 0</p> </td></tr> </table>	If drawn singly.	If drawn in duplicate, for each part.	<p>(c) In the case of any other insurance—</p> <p style="text-align: right;">Rs.</p> <p>When the amount insured does not exceed ... 1,000</p> <p>And for every further sum of Rs. 1,000 or part thereof in excess of ... 1,000</p>
If drawn singly.	If drawn in duplicate, for each part.			
<p>(c) In the case of any other insurance—</p> <p style="text-align: right;">Rs.</p> <p>When the amount insured does not exceed ... 1,000</p> <p>And for every further sum of Rs. 1,000 or part thereof in excess of ... 1,000</p>	<p style="text-align: right;">Rs. A. P.</p> <p style="text-align: right;">Rs. A. P.</p> <p style="text-align: center;">0 6 0</p> <p style="text-align: center;">0 3 0</p> <p style="text-align: center;">0 6 0</p> <p style="text-align: center;">0 3 0</p>			

Act No. II. of 1888.

RECEIVED THE ASSENT OF THE GOVERNOR GENERAL ON THE
10TH FEBRUARY, 1888.

An Act to provide for the levy of a Customs-duty on Petroleum. ^{Sec 2nd VII/1945217} _{act 16}

WHEREAS it is expedient to provide for the levy of a customs-duty on petroleum; It is hereby enacted as follows:—

1. To the second schedule to the Indian ^{Sec III/1945217} _{act I.} Tariff Act, 1882, the following shall be added, namely:—

Addition to Schedule II., Act XI., 1882.

No.	Names of Articles.	Per	Tariff valuation.	Rate of Duty.
*	*	*	*	*
5	Petroleum, including also the liquids commonly known by the names of rock-oil, Rangoon oil, Burma oil, kerosine, paraffine oil, mineral oil, petroline, gasoline, benzol, benzoline, benzine, and any inflammable liquid which is made from petroleum, coal, schist, shale, peat or any other bituminous substance or from any products of petroleum...	Imperial gallon.	.....	Six pies.
	<i>Exception.</i> —Petroleum which has its flashing point at or above two hundred degrees of Fahrenheit's thermometer and is proved to the satisfaction of the Customs-collector to be intended to be used exclusively for the batching of jute or other fibre or for lubricating purposes.			

And whereas the provisos to section 37 of the Sea Customs Act, 1878, do not apply to goods to which a rate of duty is not already applicable; It is further enacted as follows:—

2. The rate of duty applicable to petroleum of which the bill-of-entry is delivered, within the meaning of section 37 of the Sea Customs Act, 1878, to the Customs-collector under section 86 of that Act after the passing of this Act, shall be the rate of duty specified in the second schedule to the Indian Tariff Act, 1882, as amended by this Act.

Commencement of effect of the addition to the schedule.

Act No. III. of 1888.

RECEIVED THE ASSENT OF THE GOVERNOR GENERAL ON THE
17TH FEBRUARY, 1888.

An Act to amend the Law relating to the Regulation of Police.

WHEREAS it is expedient to relax those provisions of Acts for the regulation of police which restrict the employment of police-officers to the presidency, province or place of the police-establishment of which they are members; It is hereby enacted as follows:—

Title, extent and commencement. 1. (1) This Act may be called the Police Act, 1888.

(2) It extends to the whole of British India; and

(3) It shall come into force at once.

2. (1) Notwithstanding anything in Act XXIV. of 1859 (*an Act for the better regulation of the Police within the territories subject to the Presidency of Fort St. George*), Act V. of 1861 (*an Act for the Regulation of Police*), the ~~Bombay District Police Act, 1867~~, or any Act relating to the police in any presidency-town, the Governor General in Council may, by notification in the Gazette of India, create a general police district embracing parts of two or more presidencies, provinces or places, and direct the enrolment under Act V. of 1861 of a police-force for service therein.

(2) With respect to such a district and the police-force enrolled therefor, the functions of the Local Government under Act V. of 1861, the Code of Criminal Procedure, 1882, and any other enactment for the time being in force relating to police shall, subject to any orders which the Governor General in Council may make in this behalf, be discharged by the Governor General in Council, or by such Local Government or other authority as the Governor General in Council may appoint, and the functions of the Inspector General of Police, Deputy Inspectors General, Assistant Inspectors General, District Superintendents of Police and Assistant District Superintendents under Act V. of 1861 and any other enactment for the time being in force shall, subject as aforesaid, be discharged by such officer or officers as may be appointed by the authority ordinarily discharging under this sub-section the functions of the Local Government with respect to the district and force.

(3) Subject to any orders which the Governor General in Council may make in this behalf, members of a police-force enrolled for service in a general police district created under sub-section (1) shall have within every part of any presidency, province or place of which any part is included in the district the powers, duties, privileges and liabilities which, as police-officers appointed under Act V. of 1861, they have within the district.

(4) Any member of such a force whom the authority ordinarily discharging with respect thereto the functions of the Local Government under sub-section (2) has generally or specially empowered to act under this sub-section may, subject to any orders which the Governor General in Council may make in this behalf, exercise in any part of the local area in which he has the powers of a police-officer under sub-section (3) any of the powers which an officer in charge of a police-station has in that part, and, when so exercising any such power, shall, subject as aforesaid, be deemed to be an officer in charge of a police-station discharging the functions of such an officer within the limits of his station.

(5) Subject to any orders which the Governor General in Council may make in this behalf, a part of a presidency, province or place included in a general police district under sub-section (1) shall not by reason of being included therein cease for the purposes of any enactment relating to police to be part of the presidency, province or place of which it forms part.

(6) For the purposes of this section, and subject to the provisions thereof, Act V. of 1861 shall, notwithstanding anything in section 46 of that Act, be deemed to take effect throughout the whole of British India.

3. Notwithstanding anything in any of the Acts mentioned or referred

Employment of police-officers beyond the presidency, province or place to which they belong.

to in the last foregoing section, but subject to any orders which the Governor General in Council may make in this behalf, a member of the police-establishment of any presidency, province or place may discharge the functions of a police-officer in any part of British India beyond the limits of the presidency, province or place, and shall, while so discharging such functions, be deemed to be a member of the police-establishment of that part and be vested with the powers, functions and privileges, and be subject to the liabilities, of a police-officer belonging to that establishment.

Act No. IV. of 1888.

'see 7/1901 2(d)

RECEIVED THE ASSENT OF THE GOVERNOR GENERAL ON THE
2ND MARCH, 1888.

An Act to regulate Her Majesty's Indian Reserve Forces.

WHEREAS it is expedient to provide for the government, discipline and regulation of Her Majesty's Indian Reserve Forces ; It is hereby enacted as follows :—

Title and commencement.

1. (1) This Act may be called the Indian Reserve Forces Act, 1888 ; and

(2) It shall come into force on such day(a) as the Governor General in Council may, by notification in the *Gazette of India*, appoint in this behalf.

3. 1 (a).—The 26th May, 1888 is the day appointed. G. G. 1888, p. 484. 77 26 May 1888. P² 16239.

2. The Indian Reserve Forces shall consist of the Active Reserve and the Garrison Reserve.

Division of Reserve Forces into Active and Garrison Reserves.

3. (1) A person belonging to the Active Reserve shall be liable to serve beyond the limits of British India as well as within those limits.

Locality of service of Reserve.

(2) A person belonging to the Garrison Reserve shall not be liable without his consent to serve beyond the limits of British India.

4. The Governor General in Council may make rules and orders for the government, discipline and regulation of the Indian Reserve Forces.

Power to make rules for regulation of Reserve Forces.

5. Subject to the provision of section 3 with respect to persons belonging to the Garrison Reserve, and to such rules and orders as may be made under section 4, a person belonging to the Indian Reserve Forces shall, as an officer or soldier, as the case may be, be subject to military law in the same manner and to the same extent as a person belonging to Her Majesty's Indian Forces.

Liability of Reserve Forces to military law.

Punishment of certain offences by persons belonging to Reserve Forces.

6. (1) If a person belonging to the Indian Reserve Forces—

(a) when required by, or in pursuance of, any rule or order under this Act to attend at any place fails without reasonable excuse to attend in accordance with such requirement, or

(b) fails without reasonable excuse to comply with any such rule or order, or

(c) fraudulently obtains any pay or other sum contrary to any such rule or order,

he shall be liable—

(i) on conviction by a Court-martial, to such punishment other than death, transportation or imprisonment for a term exceeding one year as such Court is by the Indian Articles of War empowered to award, or

(ii) on conviction by a Magistrate of the first class, to imprisonment for a term which may extend, in the case of a first offence under this section, to six months, and, in the case of any subsequent offence thereunder, to one year.

(2) Where a person belonging to the Indian Reserve Forces is required by, or in pursuance of, any rule or order under this Act to attend at any place, a certificate purporting to be signed by an officer appointed by such a rule or order in this behalf, and stating that the person so required to

attend failed to do so in accordance with such requirement, shall, without proof of the signature or appointment of such officer, be evidence of the matters stated therein.

(3) Any person charged with an offence under this section may be taken into and kept in either military or civil custody, or partly into and in one description of custody and partly into and in the other, or be transferred from one description of custody to the other.

7. Nothing in this Act or in any rule or order thereunder shall make any person transferred to the Indian Reserve Forces before the commencement of this Act subject, without his consent, to any of the provisions of this Act.

Effect of Act on persons already in the Reserves.

Act No. V. of 1888.

RECEIVED THE ASSENT OF THE GOVERNOR GENERAL ON THE
16TH MARCH, 1888.

THE INVENTIONS AND DESIGNS ACT, 1888.

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An Act to consolidate and amend the law relating to the Protection of Inventions and Designs.

WHEREAS it is expedient to consolidate and amend the law relating to the protection of inventions and designs; It is hereby enacted as follows:—

Title, extent and commencement.

1. (1) This Act may be called the Inventions and Designs Act, 1888.

(2) It shall extend to the whole of British India; and

(3) It shall come into force on the first day of July, 1888.

Repeal.

2. (1) The enactments described in the first schedule are hereby repealed to the extent specified in the third column thereof.

(2) But this repeal of enactments shall not affect any exclusive privilege acquired, or any conditions or restrictions imposed with respect to any such privilege, or any right or liability accrued or incurred, under any of those enactments before the commencement of this Act, or any relief in respect of any such privilege, right or liability.

(3) Any enactment or document referring to any enactment hereby repealed shall be construed to refer to this Act or to the corresponding portion thereof.

Division of Act into Parts.

3. The remainder of this Act is divided into Parts, as follows :—

PART I.—INVENTIONS.

PART II.—DESIGNS.

PART I.

INVENTIONS.

Definitions.

4. In this Part unless there is something repugnant in the subject or context,—

(1) “invention” includes an improvement :

(2) “inventor” does not include the importer into British India of a new invention unless he is the actual inventor :

(3) “applicant” means a person who has applied under this Part for leave to file a specification of an invention, whether he has filed the specification or not :

(4) “assign” includes a grantee of the exclusive privilege of making, selling or using an invention, or of authorising others so to do, during the term for which the privilege is to continue or may be extended, or for any shorter term :

(5) “inventor,” “actual inventor” and “applicant” include the executors, administrators or assigns of an inventor, actual inventor and applicant, as the case may be :

(6) “manufacture” includes any art, process or manner of producing, preparing or making an article, and also any article prepared or produced by manufacture :

(7) “write” includes print, lithograph, photograph, engrave, and every other mode in which words or figures can be expressed on paper or on any substance :

(8) "Secretary" means a Secretary to the Government of India appointed by the Governor General in Council to discharge the functions of the Secretary under this Act, and includes any under-secretary, assistant-secretary or other officer subordinate to the Government of India to the extent to which such officer may be authorized by general or special order of the Governor General in Council to discharge any of those functions:

643. (1099)
P. 5 p 697.

(9) "District Court" has the meaning assigned to that expression by the Code of Civil Procedure: and

(10) "High Court" has the meaning assigned to that expression by the Code of Criminal Procedure, 1882, in reference to proceedings against European British subjects.

5. (1) The inventor of a new manufacture, whether he is a British subject or not, may apply to the Governor General in Council for leave to file a specification thereof.

Application for leave to file specification.

(2) The application must be in writing signed by the applicant and in the form or to the effect of the second schedule if the inventor has not obtained a patent in the United Kingdom, and in the form or to the effect of the third schedule if he has obtained a patent in the United Kingdom.

(3) It must state the name, occupation and address of the applicant, and, where a patent has been obtained in the United Kingdom, the date of the patent and the date of the actual sealing thereof, and must describe with reasonable precision and detail the nature of the invention, and of the particular novelty whereof it consists, and be supplemented by such further particulars relating to the invention, and by such drawings or photographs illustrative thereof, as the Governor General in Council may see fit to require from the applicant.

(4) If in any case it appears to the Governor General in Council that an application ought to be further supplemented by a model of anything alleged to constitute an invention, he may require the applicant to furnish such a model neatly and substantially made of durable material and of dimensions not exceeding those, if any, specified in the requisition therefor.

6. (1) Upon an application under the last foregoing section the Governor General in Council ~~may~~ after such inquiry as he thinks fit, make an order authorising the applicant to file a specification of the invention.

Order to file specification.

(2) Before making an order under sub-section (1), the Governor General in Council may direct that the application be referred for inquiry and report to any person whom he thinks fit.

(3) When such enquiry and report are made by a person who is not in the service of the Government, there shall be payable to that person by the applicant such fee as the Governor General in Council, after considering the report, may determine.

(4) When an application is to be referred to such a person, the applicant shall deposit, in such place and within such time as the Governor General in Council may by rule or otherwise prescribe, such sum as will, in the opinion of the Secretary, be sufficient to defray any fee which is likely to be determined under sub-section (3).

(5) If the sum is not deposited in the place and within the time prescribed, the application may be rejected.

(6) If the fee as determined by the Governor General in Council exceeds the sum so deposited, an order shall not be made under sub-section (1) until the applicant has paid the balance of the fee.

(7) If the sum deposited exceeds the fee so determined, the excess shall be refunded to the applicant.

7. (1) If two or more inventors apply on the same day for leave to file specifications of inventions which appear to the Governor General in Council to be identical or so similar as to be practically identical, the Governor General in Council may, in his discretion, authorise both or all the applicants, subject to the other provisions of this Part, to file specifications of their respective inventions.

(2) If they apply on different days for leave to file specifications of such inventions as aforesaid, the applicant who applied on the first of the different days shall be deemed to have a preferential claim to an order authorising the filing of his specification.

8. (1) If within six months from the date of an order under section 6, sub-section (1), or within such further time, not exceeding three months, as the Governor General in Council, in his discretion, may, on cause shown to his satisfaction and on payment of the fee prescribed in that behalf in the fourth schedule, see fit to allow, the applicant causes a specification of his invention to be filed in manner by this Part required, and the fee prescribed in the fourth schedule in respect of the filing of the specification to be paid, the applicant shall, subject to the other provisions of this Part, be entitled to the exclusive privilege of making, selling and using the invention in British India, and of authorising others so to do, for a term of fourteen years from the date of the filing of the specification.

(2) But an exclusive privilege in respect of an invention of a new manufacture shall, notwithstanding anything in sub-section (1), cease if the inventor fails to pay, within the time limited in that behalf by the fourth schedule, any fee prescribed in that schedule in respect of the continuance of the privilege.

(3) If, nevertheless, in any case, by accident, mistake or inadvertence, an inventor fails to pay any such fee within the time so limited, he may apply

to the Governor General in Council for an enlargement of the time for making the payment.

(4) Thereupon the Governor General in Council may enlarge the time accordingly, on payment of the fee prescribed in that behalf in the fourth schedule and subject to the following conditions, namely :—

- (a) the time for making a payment shall not in any case be enlarged for more than three months; and
- (b) if any suit is instituted in respect of an infringement of the exclusive privilege committed after a failure to make a payment within the time limited for the making thereof and before the enlargement of that time, the Court disposing of the suit may, if it thinks fit, refuse to award or give any damages in respect of the infringement.

9. (1) A specification filed under this Part must be in writing signed by the applicant, and must set forth the precise invention in respect of which the applicant claims to become entitled to an exclusive privilege.

Form and contents of specification.

(2) If the specification is of an invention which is an improvement only, it must by explicit language distinguish between what is old and what is claimed to be new.

(3) Every specification must explain the principle of the invention set forth therein and the best mode in which the applicant has contemplated applying that principle, and must describe the manner of making and using the invention in such full, clear, concise and exact terms as to enable any person skilled in the art or science to which the invention appertains, or with which it is most closely connected, to make or use the same.

10. Every application for leave to file a specification and every specification filed under this Part, must be left with, or sent by post to, the Secretary, and the date of the delivery or receipt thereof shall be endorsed thereon and recorded in his office.

Mode of filing application and specification.

11. (1) At the time of delivering or sending the specification for the purpose of its being filed, the applicant shall cause to be delivered or sent therewith to the Secretary as many copies thereof, not being fewer than four, as may be required by the rules for the time being in force under this Part.

Delivery and distribution of copies of specification.

(2) One of these copies shall be retained by the Secretary, and one shall be sent to the Governor of Fort St. George in Council, one to the Governor of Bombay in Council, one to the Chief Commissioner of Burma, and the others, if any, to such authorities as the Governor General in Council may appoint in this behalf.

(3) The copies of the specification which are sent under sub-section (2) to the authorities mentioned or referred to in that sub-section shall be open to the inspection of any person at all reasonable times at places to be appointed by those authorities.

12. (1) A book, to be called the register of inventions, shall be kept in the office of the Secretary wherein shall be entered and recorded every application for leave to file a specification, every order made on any such application, every specification filed in pursuance thereof, and every subsequent proceeding relating to the invention described therein.

Register of inventions.

(2) Applications for leave to file a specification shall be numbered consecutively in the order in which they are delivered or received, and be dated as of the day of their delivery or receipt, and shall be entered in the register of inventions in the order of their respective numbers.

(3) A reference shall be made in that register, in the margin of the entry of each application, to every order on or in respect of the application, to the specification, if any, filed in pursuance thereof, and to every subsequent proceeding relating to the invention which forms the subject of the application.

13. (1) Another book, to be called the address-book, shall be kept in the office of the Secretary wherein any person filing a specification under this Part, or any person in whom an exclusive privilege acquired under this Part, or any share or interest therein, may become vested, may from time to time cause to be stated some place in British India where notice of any rule or proceeding relating to the exclusive privilege may be served on him.

Address-book.

(2) A reference to each entry in the address-book shall be made in the register of inventions in the margin of the entry in that register of the application for leave to file the specification.

14. (1) Every entry in the register of inventions or address-book, and every document entered and recorded in the register, shall, for the purposes of the law of evidence for the time being in force, be deemed to be a public document and shall be open to the inspection of any person at all reasonable times at the office of the Secretary.

Provisions with respect to the register and book.

(2) The books kept under section 11 and section 35 of Act No. XV. of 1859 (*an Act for granting exclusive Privileges to Inventors*) shall be deemed to be parts of the register of inventions and address-book respectively.

15. (1) The inventor of a new manufacture may, at any time not more than one year and not less than six months before the time limited for the expiration of an exclusive privilege acquired under section 8, apply to the Governor General in Council for an extension of the privilege for a further term.

Extension of exclusive privilege.

(2) When an application is made under sub-section (1), the Governor General in Council may, if he thinks fit, refer it to a High Court for report.

(3) The Court to which the application is referred shall, in making its report, have regard to the nature and merits of the invention in relation to the public, to the profits made by the inventor as such, and to all the circumstances of the case.

(4) The procedure on the reference shall be such as the Court thinks fit, and may include the issue of citations calling upon persons claiming to have any interest in the reference to appear before the Court on the day on which the reference is to be considered, or on any day to which the consideration thereof may be adjourned, and make with respect thereto any representation which they may see fit in relation to any of the matters to which the Court is required by the last foregoing sub-section to have regard in making its report.

(5) If the Governor General in Council is of opinion, or, where a reference has been made under sub-section (2), if the Court reports, that the inventor has been inadequately remunerated by his exclusive privilege, the Governor General in Council may, on payment of the fee prescribed in that behalf in the fourth schedule, make an order extending the term of the privilege for a further term not exceeding seven or, in exceptional cases, fourteen years from the expiration of the first term of fourteen years.

(6) But an exclusive privilege of which the term has been extended under the last foregoing sub-section shall, notwithstanding anything in that sub-section, cease if the inventor fails to pay before the expiration of each year of such extended term the fee prescribed in the schedule aforesaid in respect of the continuance of the privilege.

16. An order under section 6, sub-section (1), authorizing the filing of a specification, or under section 15, sub-section (5), extending the term of an exclusive privilege, may be made subject to such conditions as the Governor General in Council thinks expedient.

Imposition of conditions with respect to exclusive privilege.

17. (1) Subject to any conditions imposed under the last foregoing section—

- (a) with respect to the filing, by a person employed in the service of Her Majesty in India, of the specification of a manufacture invented by him in the course of his employment, or
- (b) with respect to the extension, in favour of any person, of the term of an exclusive privilege,

an exclusive privilege acquired under this Part shall have to all intents the like effect as against Her Majesty as it has against a subject.

(2) But the officers or authorities administering any department of the service of Her Majesty may, by themselves, their agents, contractors, or

others, at any time after the delivery or receipt of the application for leave to file the specification of an invention, use the invention for the services of the Government on terms to be before or after the use thereof agreed on, with the approval of the Governor General in Council, between those officers or authorities and the inventor, or, in default of such agreement, on such terms as may be settled by the Governor General in Council.

18. (1) If, after the filing of the specification, the applicant has reason to believe that through mistake or inadvertence he has erroneously made any mis-statement in his application or specification or included therein something which at the date of the delivery or receipt of his application was not new or whereof he was not the inventor, or that the specification is in any particular defective or insufficient, he may apply to the Governor General in Council for leave to file a memorandum pointing out the mis-statement or disclaiming any part of the alleged invention, or for leave to file an amended specification, as the case may be.

(2) The application must be in writing signed by the applicant, and must state how the error, defect or insufficiency occurred and that it was not fraudulently intended.

(3) Upon the application the Governor General in Council may make an order allowing the memorandum or amended specification to be filed.

(4) The provisions of section 6 with respect to applications, and of sections 9 and 11 with respect to specifications and copies thereof, shall apply, so far as they can be made applicable, to applications and to amended specifications, respectively, made and filed under this section.

19. An amended specification filed under the last foregoing section shall, except as to any suit or proceeding relating to the exclusive privilege which may be pending at the time of the filing of the amended specification, have the same effect as if it had been the specification first filed :

Provided that nothing in an amended specification shall be construed to extend or enlarge an exclusive privilege before acquired.

Bar to exclusive privilege in certain cases.

20. A person shall not be entitled to an exclusive privilege under this Part—

- (a) if the invention is of no utility, or
- (b) if the invention, at the date of the delivery or receipt of the application for leave to file the specification thereof, was not a new invention within the meaning of this Part, or
- (c) if the applicant is not the inventor thereof, or
- (d) if the original or any amended specification does not fulfil the requirements of this Part, or

- (e) if the original or any subsequent application relating to the invention or the original or any amended specification contains a wilful or fraudulent mis-statement, or
- (f) if the application for leave to file the specification of the invention was made under this Part after the expiration of one year from the date of the acquisition of an exclusive privilege in respect of the invention in any place beyond the limits of British India and the United Kingdom.

21. An invention shall be deemed a new invention within the meaning of this Part if it has not before the date of the delivery or receipt of the application for leave to file the specification thereof been publicly used in any part of British India or of the United Kingdom, or been made publicly known in any part of British India or of the United Kingdom by means of a written publication.

22. The public use or knowledge of an invention before the date of the delivery or receipt of the application for leave to file a specification thereof shall not be deemed a public use or knowledge within the meaning of this Part if the knowledge has been obtained surreptitiously or in fraud of the inventor or has been communicated to the public in fraud of the inventor or in breach of confidence:

Provided that the inventor has not acquiesced in the public use of his invention, and that, within six months after the commencement of that use, he applies for leave to file a specification.

23. Use of an invention in public by the inventor thereof, or by his servant or agent, or by any other person by his license in writing, for a period not exceeding one year immediately preceding the date of the delivery or receipt of his application for leave to file a specification thereof, or knowledge of the invention resulting from such use thereof in public, shall not be deemed a public use or knowledge within the meaning of this Part.

24. If an inventor who has obtained a patent for his invention in the United Kingdom causes an application for leave to file a specification of the invention under this Part, to be delivered or received by the Secretary within twelve months from the date of the actual sealing of the patent, the invention shall be deemed a new invention within the meaning of this Part if it was not publicly used or known in any part of British India at or before the date of the application for the patent, notwithstanding that it may have been

publicly used or known in some part of British India or of the United Kingdom before the date of the delivery or receipt of the application under this Part for leave to file the specification.

25. If an inventor applies for leave to file a specification under this Part while his application for a patent is pending in the United Kingdom, and the interval between the date of his application for the patent and the date of the delivery or receipt of his application under this Part does not exceed twelve months, the invention shall not be deemed to have been publicly used, or made publicly known, within the meaning of this Part, by reason only of the invention having been used, or a description thereof having been published, in any part of British India or of the United Kingdom during the interval.

26. If an inventor, being the exhibitor of his invention at an industrial or international exhibition, certified as such by the Governor General in Council, causes an application for leave to file a specification of the invention to be delivered to or received by the Secretary within six months from the date of the admission of the invention into that exhibition, the invention shall not be deemed to have been publicly used, or made publicly known, within the meaning of this Part, by reason only of the invention having at any time after admission into the exhibition been publicly used or made publicly known.

27. (1) An exclusive privilege acquired under this Part shall cease if the Governor General in Council declares the privilege, or the mode in which it is exercised, to be mischievous to the State, or generally prejudicial to the public.

(2) It shall also cease if a breach of any condition on which the applicant was authorised to file a specification, or on which the term of the exclusive privilege was extended, is on an application under this Part to a High Court proved to the satisfaction of that Court, and if the Governor General in Council thereupon declares the privilege to have ceased.

28. (1) An exclusive privilege acquired under this Part in respect of an invention for which a patent has been obtained in the United Kingdom shall cease on the revocation or expiration of the patent.

(2) Such a privilege in respect of an invention for which a patent has not been obtained in the United Kingdom shall cease on the revocation or expiration of any patent or exclusive privilege which has been obtained or acquired for or in respect of the invention in any other country.

29. (1) An inventor may institute a suit in the District Court against any person who, during the continuance of an exclusive privilege acquired by him under this Part in respect of an invention, makes, sells or uses the invention without his license, or counterfeits or imitates it.

(2) The suit shall not be defended upon the ground of any defect or insufficiency of the specification of the invention, or upon the ground that the original or any subsequent application relating to the invention, or the original or any amended specification, contains a wilful or fraudulent mis-statement, or upon the ground that the invention is of no utility :

(3) Nor shall it be defended upon the ground that the plaintiff was not the inventor, unless the defendant shows that he himself is the actual inventor or has obtained from the actual inventor a right to make, sell or use the invention, or to counterfeit or imitate it, as the case may be :

(4) Nor shall it be defended upon the ground that the invention was not new, unless the defendant, or some person through whom he claims, has, before the date of the delivery or receipt of the application for leave to file the specification, publicly or actually used in some parts of British India or of the United Kingdom the invention or that part of it with respect to which the exclusive privilege is alleged to have been infringed.

30. Any person may apply to a High Court for a rule to show cause why the Court should not declare that an exclusive privilege in respect of an invention not to have been acquired. Application to declare exclusive privilege in respect of an invention not to have been acquired. to be specified in the rule has not been acquired under this Part by reason of all or any of the objections following (to be specified in the rule), that is to say :—

- (a) that the invention is of no utility, or
- (b) that the invention was not, at the date of the delivery or receipt of the application for leave to file the specification, a new invention within the meaning of this Part, or
- (c) that the applicant was not the inventor thereof, or
- (d) that the original or any amended specification does not fulfil the requirements of this Part, or
- (e) that the applicant has knowingly or fraudulently included in the application for leave to file the specification or in the original or any amended specification, as part of his invention, something which was not new or whereof he was not the inventor, or
- (f) that the original or any subsequent application relating to the invention, or the original or any amended specification, contains a wilful or fraudulent mis-statement, or

S. 30.—A licensee under a patent cannot, as between himself and the patentee, challenge the soundness of the patent during the continuance of his license. I. L. R., XV. Cal., 244.

- (g) that some part of the invention, or the manner in which that part is to be made and used, as described in the original or any amended specification, is not thereby sufficiently described, and that this insufficiency was fraudulent and is injurious to the public.

31. Any person may apply to a High Court for a rule to show cause why the Court should not declare that an exclusive privilege in respect of any part of an invention to be specified in the rule has not been acquired under this Part, by reason of all or any of the objections following (to be specified in the rule), that is to say:—

Like application as to part of an invention.

- (a) that that part of the invention is wholly distinct from the other parts thereof and is of no utility, or
- (b) that that part of the invention was not, at the date of the delivery of receipt of the application for leave to file the specification, a new invention within the meaning of this Part, or
- (c) that the applicant was not the inventor of that part of the invention, or
- (d) that that part of the invention, or the manner in which it is to be made and used, is not sufficiently described in the original or any amended specification, and that this insufficiency is injurious to the public.

32. The High Court may, irrespective of any provisions of the Code of Civil Procedure in this behalf, require a person applying for a rule under either of the two last foregoing sections to give security for the payment of all costs incurred or likely to be incurred by any person appearing to show cause against the rule.

Security for costs of application under either of the two last foregoing sections.

33. (1) Any person authorized by the Governor General in Council in this behalf may apply to a High Court for a rule to show cause why the question of the breach of any condition on which leave to file a specification has been granted, or any other question of fact on which the cessation of an exclusive privilege under section 27 may, in the judgment of the Governor General in Council, depend, should not be tried in the form of an issue directed by the Court.

Application on breach of condition.

(2) If the rule is made absolute, the Court, unless the breach or other matter of fact is admitted, may direct the issue to be tried and certify the result of the trial to the Governor General in Council.

34. (1) Notice of any rule obtained or proceeding taken under section 30, section 31 or section 33 shall be served on all persons appearing from the address-book to be proprietors of the exclusive privilege, or to persons interested.

Notice of proceedings to persons interested.

have shares or interests therein, and it shall not be necessary to serve the notice on any other person.

(2) The notice shall be deemed to be sufficiently served if a copy thereof is left at the place for the time being stated in the address-book, by delivering the copy to any person resident at or in charge of the place or, if there is no person resident at or in charge of the place, or if the place is not within the local limits of the jurisdiction of the Court, by causing the notice to be sent to the place by post by a registered letter directed to the person to whom the notice is addressed.

35. (1) The High Court may, if it thinks fit, direct an issue for the trial, before itself or any other High Court, or any District Court, of any question of fact arising upon an application under section 30, section 31 or section 33, and the issue shall be tried accordingly.

(2) If the issue is directed to another Court, the finding shall be certified by that Court to the Court directing the issue.

(3) If the issue is directed to a District Court, the finding of that Court shall not be subject to appeal, but the evidence taken upon the trial shall be recorded, and a copy thereof, certified by the Judge of the Court, shall be transmitted, together with any remarks which he may think fit to make thereon, to the High Court, and the High Court may thereupon act upon the finding of the District Court, or dispose of the application upon the evidence recorded, or direct a new trial, as the justice of the case may require.

36. (1) If it appears to the High Court at the hearing of an application under section 30 or section 31 that, by reason of any of the objections specified in the rule, the exclusive privilege in the invention or in any part thereof has not been acquired, the Court shall make an order accordingly, and thereupon the applicant shall, so long as the order continues in force, cease to be entitled to the exclusive privilege.

(2) If it appears to the High Court, at the hearing of any such application as last aforesaid, that the applicant has, in the description of his invention in the application for leave to file a specification thereof or in the original or any amended specification, erroneously included something which at the date of the delivery or receipt of the application for leave to file the specification was not new or whereof he was not the inventor, or that the specification is in any particular defective or insufficient, but that the error, defect or insufficiency was not fraudulently intended, the Court may adjudge the exclusive privilege to have been acquired and to be valid, save as to the part thereof affected by the error, defect or insufficiency : or

(3) If it appears to the High Court that the error, defect or insufficiency can be amended without injury to the public, the Court may adjudge the exclusive privilege in respect of the whole of the invention to be valid, and

may, upon such terms as it thinks reasonable, order the specification to be amended in any particular in which it is erroneous, defective or insufficient; and thereupon the applicant shall, within a time to be limited by the Court for the purpose, file in the office of the Secretary a specification amended according to the order.

(4) The provisions of section 18 with respect to the distribution and disposal of copies of amended specifications, and of section 19 with respect to the effect of such specifications, shall apply, so far as they can be made applicable, to an amended specification filed under this section.

(5) An exclusive privilege in respect of an invention shall not be defeated upon the ground that the application for leave to file the specification of the invention contains a mis-statement, unless the mis-statement was wilful or fraudulent.

37. (1) In a suit for the infringement of an exclusive privilege

acquired under this Part the plaintiff shall deliver with his plaint particulars of the breaches complained of in the suit, and the defendant shall deliver a written statement of the particulars of the grounds, if any, upon which he means to contend that the plaintiff is not entitled to an exclusive privilege in respect of the invention.

(2) In like manner, upon an application to a High Court under section 30, section 31 or section 33, the person making the application shall deliver particulars of the objections or grounds on which he means to rely.

(3) At the hearing of any such suit or application, or at the trial of any issue arising out of any such application, evidence shall not be allowed to be given in proof of any breach of the exclusive privilege, or of any ground impeaching the validity of that privilege, or of any objection or ground affecting such a privilege, unless such breach or other matter as aforesaid has been stated in the particulars delivered under this section.

(4) If it is alleged that the invention was publicly used or known before the date of the delivery or receipt of the application for leave to file the specification thereof, the places where and the manner in which the invention was so publicly used or known shall be stated in the particulars.

(5) Notwithstanding anything in the foregoing portion of this section, the Court in which the suit or application is pending, or an issue arising out of the application is being tried, may allow the plaintiff or defendant respectively to amend the particulars delivered under this section upon such terms as it thinks fit.

38. If, in a suit instituted in the District Court at any time within

fourteen years from the date of the filing of a specification of an invention under this Part, the actual inventor proves to the satisfaction

Title of actual inventor to exclusive privilege in case of fraud.

of the Court that the applicant was not the actual inventor, and that at the time of the application for leave to file the specification the applicant knew or had reason to believe that the knowledge of the invention was obtained by himself or by some other person surreptitiously or in fraud of the actual inventor, or by means of a communication made in confidence by the actual inventor to him or to any person through whom he derived the knowledge, the Court may make a decree declaring an exclusive privilege in respect of the invention to be vested, subject to the other provisions of this Part, in the actual inventor for a term of fourteen years from the date on which the specification was filed, and requiring the applicant to account for and pay over to the actual inventor the profits derived by him from the invention or so much of those profits as the Court, having regard to the degree of diligence exerted by the actual inventor in proceeding under this section and to all the other circumstances of the case, may see fit to require the applicant to pay.

39. A Court making a decree in a suit under section 29 or section 38, or an order on an application under section 30, section 31 or section 33, shall send a copy of the decree or order, as the case may be, to the Secretary, who shall cause an entry thereof and reference thereto to be made in the register of inventions and against any entry in the address-book affected thereby.

Registration of cessation of exclusive privilege. 40. In the following cases, namely—

- (a) when an exclusive privilege acquired under this Part has ceased under section 8 or section 15 by reason of a fee in respect of the continuance of the privilege not having been paid within the time limited by the fourth schedule for the payment thereof, and the period, if any, within which an order might have been made for enlarging the time for the making of the payment has expired ;
- (b) when an exclusive privilege acquired under this Part has been declared by the Governor General in Council under section 27 to have ceased ;
- (c) when an exclusive privilege acquired under this Part has ceased under section 28 by reason of the revocation or expiration of a patent or exclusive privilege ;
- (d) when the whole or any part of an exclusive privilege acquired under this Part has ceased under section 36 in consequence of an order under that section ;
- (e) when an exclusive privilege has been declared by a decree to have vested in an actual inventor under section 38 ;

- (f) when an exclusive privilege acquired under this Part has ceased by reason of the expiration of the term for which it was acquired;

the Secretary shall cause an entry with respect to the cessation or vesting of the exclusive privilege to be made in the register of inventions, and a reference to that entry to be made in the margin of the entry in that register of the application for leave to file the specification of the invention.

41. (1) If any person is aggrieved by an entry in the register of inventions or address-book, or by the omission of an entry therefrom, and a proceeding is not provided in the foregoing portion of this Part whereby the register or book may be rectified, he may apply to a High Court for an order for the rectification of the register or book, and the Court may make such order on the application as it thinks fit.

(2) A copy of the order shall be forwarded by the Court to the Secretary, who shall cause an entry thereof and reference thereto to be made in the register of inventions and against any entry in the address-book effected thereby.

(3) When the Secretary is a party to an application under this section, the costs of another party thereto shall not be adjudged to be payable by the Secretary.

42. A High Court to which an application has been made under section 30, section 31, section 33 or section 41 may stay proceedings on or dismiss certain applications. Power to High Court to stay proceedings on or dismiss certain applications. provided in its opinion the application would be disposed of more justly or conveniently by another High Court.

43. If on the petition of any person interested it is proved to the Governor General in Council that, by reason of an inventor who has acquired an exclusive privilege under this Part failing to grant licenses on reasonable terms,— Power for Governor General in Council to require grant of licenses.

- (a) the exclusive privilege is not being worked in British India, or
- (b) the reasonable requirements of the public with respect to the invention cannot be supplied, or
- (c) any person is prevented from working or using to the best advantage an invention of which he is possessed,

the Governor General in Council may order the inventor to grant, or may himself on behalf of the inventor grant, licenses on such terms as to the amount of royalties, security for payment, or otherwise, as the Governor General in Council, having regard to the nature of the invention and the circumstances of the case, may deem just.

44. Any person for the time being entitled to an exclusive privilege under this Part, or to any share or interest in such a privilege, in any local area may, subject to the conditions of his title thereto, assign the privilege or such share or interest, as the case may be, for any place in or part of that local area.

45. If an applicant is absent from British India, an application for leave to file a specification, or a specification, or an application for leave to file a memorandum or amended specification, may, instead of being signed by the applicant under section 5, section 9 or section 18, as the case may be, be signed on behalf of the applicant by an agent in British India authorised by him in writing in that behalf.

46. (1) An application under this Part for leave to file a specification, memorandum or amended specification must be verified by the person making the application.

(2) If that person is absent from British India, the application may be verified by the agent who signs the application on his behalf.

(3) The verification must be signed by the person making it, and must be to the effect that the facts stated in the application are true to his knowledge, except as to matters stated on information and belief, and that as to those matters he believes them to be true.

47. Subject to the provisions of the two last foregoing sections and of any other enactment for the time being in force, any act which is required or authorised by this Part to be done by any person may be done on his behalf by an agent in British India having authority in writing from that person so to do the act.

48. (1) There shall be paid in respect of the several proceedings specified in the fourth schedule the fees in that schedule prescribed.

(2) The Governor General in Council may, if he thinks fit, reduce any of those fees and revoke or vary the reduction.

(3) The fees payable under this section shall be collected by means of stamps or otherwise as the Governor General in Council directs.

(4) A proceeding in respect of which a fee is payable under the fourth schedule shall be of no effect unless the fee has been paid.

49. (1) The Governor General in Council may make such rules and prescribe such forms as he thinks necessary for carrying out the purposes of this Part, and may alter or amend either of the forms in the second and third schedules.

Rules and forms.

(2) Rules under this section may provide, among other matters, for the printing of specifications, memoranda and amended specifications, and for the distribution or sale of printed copies thereof.

PART II.

DESIGNS.

Definitions.

50. In this Part, unless there is something repugnant in the subject or context,—

(1) “design” means some peculiar shape, configuration or form given to an article, or arrangement of lines or the like used on or with an article, but not the article itself :

(2) “copyright” means the exclusive right to apply a design to an article :

(3) the author of any new and original design shall be considered the “proprietor” thereof, unless he executed the work on behalf of another person for a good or valuable consideration, in which case that person shall be considered the “proprietor,” and every person acquiring for a good or valuable consideration a new and original design, or the right to apply the same to an article, either exclusively of any other person or otherwise, and also every person on whom the property in the design or the right to the application thereof shall devolve, shall be considered the “proprietor” of the design in the respect in which the same may have been so acquired, and to that extent, but not otherwise : and

(4) “Secretary,” “District Court” and “High Court” have the same meanings as in Part I.

51. (1) Any person, whether a British subject or not, claiming to be the proprietor of any new and original design not previously published in British India may apply to the Governor General in Council for an order for the registration of the design.

(2) The application must be in writing in the form or to the effect of the fifth schedule, and must contain a statement of the nature of the design and be accompanied by as many copies of drawings, photographs or tracings thereof, not being fewer than four, as may be required by the rules for the time being in force under this Part.

(3) It must be left with, or sent by post to, the Secretary, and the date of the delivery or receipt thereof in the office of the Secretary shall be endorsed thereon and recorded in that office.

52. (1) Upon the application the Governor General in Council may, after such inquiry as he thinks fit, make an order authorizing the registration of the design.

Registration in register of designs.

(2) When an order has been made under sub-section (1), the Secretary shall cause the design to be registered in a book to be kept by him for the purpose and to be called the register of designs.

(3) The date of registration shall be recorded in the register.

53. When a design is registered, the proprietor thereof shall, subject to the other provisions of this Part, have copy-right in the design during five years from the date of registration.

54. (1) Before delivery on sale of any article to which a registered design has been applied, the proprietor of the design shall cause the article to be marked with the word "registered" either in full or in an abbreviated form.

(2) If he fails to cause the article to be so marked, the copyright in the design shall cease unless the proprietor shows that he took all proper steps to ensure the marking of the article.

55. If the proprietor of a design exhibited at an industrial or international exhibition, certified as such by the Governor General in Council, causes an application for an order for the registration of the design to be delivered to or received by the Secretary within six months from the date of the admission of the design into that exhibition, the design shall not be deemed not to be a new and original design not previously published in British India within the meaning of section 51 by reason only of the design having been exhibited at the exhibition.

56. Any person in whom the copyright in a design has become vested may apply to the Secretary for the entry of his name in the register of designs as proprietor of the copyright, and the Secretary may, if he sees fit, cause the entry to be made.

57. (1) The registered proprietor of a design may institute a suit in the District Court for the recovery of any damages arising from the application by any person to any article of the design or of any fraudulent or obvious imitation thereof for the purpose of sale, or from the publication, sale or exposure for sale by any person of any article to which the design, or any fraudulent or obvious imitation thereof, has been applied, that person knowing or having reason to believe that the proprietor had not given his consent to such application.

(2) When the Court makes a decree in a suit under this section, it shall send a copy of the decree to the Secretary, who shall cause an entry thereof to be made in the register of designs.

58. When, from the expiration of the term of a copyright or from any other cause, the copyright in a design has ceased, the Secretary shall cause an entry with respect to the cessation of the right to be made in the register of designs.

59. (1) A High Court may, on the application of any person aggrieved by an entry in the register of designs, or by the omission of an entry therefrom, make such order for the rectification of the register as it thinks fit.

(2) An order under sub-section (1) may declare copyright in a design not to have been acquired.

(3) A copy of the order shall be forwarded by the Court to the Secretary, who shall cause an entry thereof to be made in the register of designs.

(4) When the Secretary is a party to an application under this section, the costs of another party thereto shall not be adjudged to be payable by the Secretary.

60. A High Court to which an application has been made under the last foregoing section may stay proceedings on, or dismiss, the application if, in its opinion, the application would be disposed of more justly or conveniently by another High Court.

Power to High Court to stay proceedings on, or dismiss, application for rectification of register.

61. The provisions of the following portions of Part I, namely:—

- (a) section 11, with respect to copies of specifications,
- (b) section 14, with respect to the register of inventions and the matters entered therein, and
- (c) section 47, with respect to the performance by an agent of any act required or authorised by that Part to be done by a principal,

shall, so far as they can be made applicable, apply, respectively, to—

- (a) copies of drawings, photographs or tracings accompanying an application for an order for the registration of a design in respect of which such an order has been made,
- (b) the register of designs and the matters entered and documents referred to therein, and
- (c) the performance by an agent of any act required or authorised by this Part to be done by a principal.

62. (1) There shall be paid in respect of the several proceedings specified in the sixth schedule the fees in that schedule prescribed.

Fees.

¹ 993 (1890) P.S. 148 (2) The Governor General in Council may, if he thinks fit, reduce any of those fees and revoke or vary the reduction.

(3) The fees payable under this section shall be collected by means of stamps or otherwise as the Governor General in Council may direct.

(4) A proceeding in respect of which a fee is payable under the sixth schedule shall be of no effect unless the fee has been paid.

63. The Governor General in Council may make such rules and prescribe such forms as he thinks necessary for carrying out the purposes of this Part, and may

Rules and forms.

² 993 (1890) P.S. 154 alter or amend the form in the fifth schedule.⁴

THE FIRST SCHEDULE.

ENACTMENTS REPEALED.

(See section 2.)

Number and year.	Subject or title.	Extent of repeal.
XV. of 1859.....	For granting exclusive Privileges to Inventors.	So much as has not been repealed.
XIII. of 1872	Patterns and Designs Protection Act, 1872.	So much as has not been repealed.
XVI. of 1883	Protection of Inventions Act, 1883.	The whole.
³ 21/99 S. 79. I. of 1879.....	Indian Stamp Act, 1879.	Article 48, Schedule I.

THE SECOND SCHEDULE.

APPLICATION WHERE PATENT HAS NOT BEEN OBTAINED.

(See sections 5 and 49.)

TO THE GOVERNOR GENERAL IN COUNCIL.

The application of (*here insert name, occupation and address*) for leave to file a specification under Part I. of the Inventions and Designs Act, 1888.

1. The applicant is in possession of an invention for (*state the title of the invention*); he is the inventor thereof (*or, as the case may be, the executor, administrator or assign of the inventor*); and, to the best of his information and belief, the invention is new within the meaning of Part I. of the Inventions and Designs Act, 1888, and no circumstance exists which, if the applicant is authorised to file a specification and files it in accordance with that Part, will disentitle him to an exclusive privilege thereunder in respect of the invention.

2. The following is a description of the invention (*here describe it and the particular novelty whereof it consists*).

3. The applicant therefore applies for leave to file a specification of the invention pursuant to Part I. of the Inventions and Designs Act, 1888.

(Signature and verification.)

THE THIRD SCHEDULE.

APPLICATION WHERE PATENT HAS BEEN OBTAINED.

(See sections 5 and 49.)

TO THE GOVERNOR GENERAL IN COUNCIL.

The application of (*here insert name, occupation and address*) for leave to file a specification under Part I. of the Inventions and Designs Act, 1888.

1. The applicant (*or, as the case may be, A. B. of whom the applicant is the executor, administrator or assign*) has obtained a patent in the United Kingdom dated and sealed as of the day of , and actually sealed on the day of , for (*state the title of the invention*).

2. To the best of the information and belief of the applicant the invention is new within the meaning of Part I. of the Inventions and Designs Act, 1888, and no circumstance exists which, if the applicant is authorized to file a specification and files it in accordance with that Part, will disentitle him to an exclusive privilege thereunder in respect of the invention.

3. The following is a description of the invention (*here describe it and the particular novelty whereof it consists*).

4. The applicant therefore applies for leave to file a specification of the invention pursuant to Part I. of the Inventions and Designs Act, 1888.

(Signature and verification.)

THE FOURTH SCHEDULE.

FEES (Inventions).

(See sections 8, 15 and 48).

	Rs. A. P.
(1) in respect of an application for leave to file a specification (section 5).	10 0 0
(2) in respect of the filing of a specification (section 8)	30 0 0
(3) in respect of an extension of the time for filing a specification (section 8)	20 0 0
(4) in respect of the continuance of an exclusive privilege (section 8)—	
(a) after the filing of the specification and before the expiration of the fourth year from the date of the filing thereof	50 0 0
(b) after the expiration of the fourth year and before the expiration of the fifth year from that date	50 0 0
(c) after the expiration of the fifth year and before the expiration of the sixth year from that date	50 0 0
(d) after the expiration of the sixth year and before the expiration of the seventh year from that date	50 0 0
(e) after the expiration of the seventh year and before the expiration of the eighth year from that date	50 0 0
(f) after the expiration of the eighth year and before the expiration of the ninth year from that date	100 0 0
(g) after the expiration of the ninth year and before the expiration of the tenth year from that date	100 0 0
(h) after the expiration of the tenth year and before the expiration of the eleventh year from that date	100 0 0
(i) after the expiration of the eleventh year and before the expiration of the twelfth year from that date	100 0 0

	Ra.	A.	P.
(j) after the the expiration of the twelfth year and before the expiration of the thirteenth year from that date	100	0	0
Provided that the inventor may pay the sum total of the said fees in respect of the continuance of the exclusive privilege, or any part thereof short of the sum total, at any time before the same falls due.			
(5) in respect of an enlargement of the time for payment of a fee under article (4) of this schedule (section 8)—			
(i) if the enlargement does not exceed one month	10	0	0
(ii) if the enlargement exceeds one month, but does not exceed two months	25	0	0
(iii) if the enlargement exceeds two months.....	50	0	0
(6) in respect of an application for an extension of an exclusive privilege for a further term (section 15)	50	0	0
(7) in respect of an order extending the term of an exclusive privilege (section 15)	100	0	0
(8) in respect of the continuance of an exclusive privilege of which the term has been extended (section 15).....	100	0	0
	to be paid before the expiration of each year of the extended term :		
Provided that the inventor may pay the sum total of the said fees in respect of the continuance of the exclusive privilege, or any part thereof short of the sum total, at any time before the same falls due.			
(9) in respect of an application for leave to file a memorandum or amended specification (section 18).....	20	0	0
(10) in respect of a petition to the Governor General in Council for a compulsory license (section 43).....	50	0	0
(11) for the inspection of any book or other document which is open to inspection under Part I.	1	0	0
(12) for copies—			
(a) when the number of words copied does not exceed four hundred...	1	0	0
(b) for every hundred words in excess of four hundred	0	4	0
(c) of drawings or photographs.....	cost according to agreement.		
(13) for certifying copies—			
for every hundred words.....	0	2	0

THE FIFTH SCHEDULE.

APPLICATION FOR ORDER FOR REGISTRATION OF DESIGN.

(See sections 51 and 63.)

The application of (*here insert name, occupation and address*) for an order for the registration of a design under Part II. of the Inventions and Designs Act, 1888.

1. The applicant claims to be the proprietor of the design of which the nature is hereinafter stated.

2. To the best of his information and belief, that design is, within the meaning of Part II. of the Inventions and Designs Act, 1888, a new and original design not previously published in British India.

3. copies of (*drawings*), (*photographs*), (*tracings*) of the design accompany this application.

4. The following is a statement of the nature of the design (*here describe its nature*).

5. The applicant therefore applies for an order for the registration of the design pursuant to Part II. of the Inventions and Designs Act, 1888.

(Signature).

THE SIXTH SCHEDULE.

FEEs (*Designs*).

(See section 62).

	Rs.	A.	P.
(1) in respect of an application for an order for the registration of a design (section 51).....	10	0	0
(2) in respect of a mutation of names in the register of designs (section 56)	5	0	0
(3) for the inspection of any book or other document which is open to inspection under Part II.....	1	0	0
(4) for copies—			
(a) when the number of words copied does not exceed four hundred.	1	0	0
(b) for every hundred words in excess of four hundred.....	0	4	0
(c) of drawings, photographs or tracings.....	cost according to agreement.		
(5) for certifying copies—			
for every hundred words	0	2	0

Act No. VI. of 1888.

RECEIVED THE ASSENT OF THE GOVERNOR GENERAL ON THE
23RD MARCH, 1888.

An Act to amend the law relating to Imprisonment for Debt.

WHEREAS it is expedient to amend the law relating to imprisonment for debt; It is hereby enacted as follows:—

Title, commencement and extent. 1. (1) This Act may be called the Debtors Act, 1888; and

(2) It shall come into force at once.

(3) The several portions thereof have the same local extent as the enactments to which they respectively relate.

Act VI.—This Act is extended, except sections 9 and 10, to the Hyderabad Assigned Districts, to the Residency and Civil Station of Kolhapur and to the Cantonment of Secunderabad, and, except section 10, to the Cantonment of Deesa. G. G. 1888, pp. 1009, 1010.

Addition of sections after section 245 of the Code of Civil Procedure.

2. After section 245 of the Code of Civil Procedure the following sections shall be inserted, namely :—

“245A. Notwithstanding anything in the last foregoing section or in any other section of this Code, the Court shall not order the arrest or imprisonment of a woman in execution of a decree for money.

Prohibition of arrest or imprisonment of women in execution of decrees for money.

“245B. (1) Notwithstanding anything in section 245 or in any other section of this Code, when an application is for the execution of a decree for money by the arrest and imprisonment of a judgment-debtor who is liable to be arrested in pursuance of the application, the Court may, instead of issuing a warrant for his arrest, issue a notice calling upon him to appear before the Court on a day to be specified in the notice and show cause why he should not be committed to jail in execution of the decree.

“(2) If appearance is not made in obedience to the notice, the Court shall, if the decreeholder so requires, issue a warrant for the arrest of the judgment-debtor.”

3. In section 250 of the said Code, between the word “shall” and the word “issue”, the following shall be inserted, namely :—

“subject to the provisions of sections 245A and 245B,”.

Addition of new section after section 337 of the Code.

4. After section 337 of the said Code the following shall be inserted, namely :—

“337A. (1) When a judgment-debtor appears before the Court in obedience to a notice issued under section 245B, or is brought before the Court after being arrested in execution of a decree for money, and it appears to the Court that the judgment-debtor is unable from poverty or other sufficient cause to pay the amount of the decree or, if that amount is payable by instalments, the amount of any instalment thereof, the Court may, upon such terms, if any, as it thinks fit, make an order disallowing the application for his arrest and imprisonment, or directing his release, as the case may be.

“(2) Before making an order under sub-section (1), the Court may take into consideration any allegation of the decreeholder touching any of the following matters, namely :—

‘6f 12031/2.062’ (a) the decree being for a sum for which the judgment-debtor was bound as a trustee or as acting in any other fiduciary capacity to account;

- (b) the transfer, concealment or removal by the judgment-debtor of any part of his property after the date of the institution of the suit in which the decree was made, or the commission by him after that date of any other act of bad faith in relation to his property, with the object or effect of obstructing or delaying the decreeholder in the execution of the decree ;
- (c) any undue or unreasonable preference given by the judgment-debtor to any of his other creditors ;
- (d) his refusal or neglect to pay the amount of the decree or some part thereof when he has or since the date of the decree has had the means of paying it ;
- (e) the likelihood of his absconding or leaving the jurisdiction of the Court with the object or effect mentioned in clause (b) of this sub-section.

“(3) While any of the matters mentioned in sub-section (2) are being considered, the Court may in its discretion order the judgment-debtor to be imprisoned, or leave him in the custody of an officer of the Court, or release him on his furnishing sufficient security for his appearance on the requisition of the Court.

“(4) A judgment-debtor released under this section may be re-arrested.

“(5) If the Court does not make such an order as is mentioned in sub-section (1), it shall cause the judgment-debtor to be arrested if he has not already been arrested and, subject to the other provisions of this Code, commit him to jail.”

Addition to section 380 of the Code.

5. To section 380 of the said Code the following shall be added, namely :—

“On the application of any defendant in a suit for money in which the plaintiff is a woman the Court may at any stage of the suit make a like order if it is satisfied that such plaintiff does not possess any sufficient immoveable property within British India independent of the property in suit.”

6. In section 640 of the said Code, after the words “from arrest in execution of civil process” the words “in any case in which the arrest of women is not prohibited by this Code” shall be added.

Amendment of section 640 of the Code.

7. In section 642 of the said Code, for the words and figures “except as provided in sections 256 and 643” the following shall be substituted, namely :—

Amendment of section 642 of the Code.

“except as provided in section 337A, sub-section (5), and sections 256 and 643.”

Addition of new section after section 652 of the Code.

8. After section 652 of the said Code the following shall be added, namely :—

“ 653. (1) At any time after a warrant of arrest has been issued under this Code, the Court may cancel it on the ground of the serious illness of the person against whom the warrant was issued.

“ (2) When a judgment-debtor has been arrested under this Code the Court may release him if in its opinion he is not in a fit state of health to undergo imprisonment.

“ (3) When a judgment-debtor has been committed to jail, he may be released therefrom—

(a) by the Local Government, on the ground of his suffering from any infectious or contagious disease, or

(b) by the committing Court, or any Court to which that Court is subordinate, on the ground of his suffering from any serious illness.

“ (4) A judgment-debtor released under this section may be re-arrested, but the period of his imprisonment shall not in the aggregate exceed that prescribed in section 342 or section 481, as the case may be.”

9. The last sixteen words of section 8 of the Married Women's Property Act, 1874, and the whole of section 31 of the Ajmere Courts Regulation, 1877, are hereby repealed.

10. (*Relates to Madras and the N. W. Provinces.*)

Act No. VII. of 1888.

RECEIVED THE ASSENT OF THE GOVERNOR GENERAL ON THE
23RD MARCH, 1888.

An Act to amend the Code of Civil Procedure, the Indian Registration Act, 1877, and the Indian Limitation Act, 1877.

WHEREAS it is expedient to amend the Code of Civil Procedure, the Indian Registration Act, 1877, and the Indian Limitation Act, 1877; It is hereby enacted as follows :—

Title and commencement. 1. This Act may be called the Civil Procedure Code Amendment Act, 1888; and

(2) It shall come into force on the first day of July, 1888.

Construction. 2. (1) In this Act, unless there is something repugnant in the subject or context, “section” means a section, “schedule” a schedule, and “Chapter” a Chapter,

of the Code of Civil Procedure.

Act VII. is under S. 5 of Act XIV. of 1874, extended to the Province of Sind. (G. G. 1888, p. 830). It is extended to the Cantonment of Deera and, except section 17, to the Hyderabad Assigned Districts and to the Cantonment of Secunderabad, and, except sections 65 and 66, to the Residency and Civil Station of Kollhapur. G. G. 1888, pp. 1009, 1010.

(2) Any reference in any enactment heretofore passed or hereafter to be passed to any Act amended by this Act shall, so far as may be, be read as if made to that Act as so amended.

Addition of new section after section 4.

3. The following shall be inserted after section 4, namely:—

“4A. (1) Where any Revenue Courts are governed by the provisions of the Code of Civil Procedure in those matters of procedure upon which any special enactment applicable to them is silent, the Local Government, with the previous sanction of the Governor General in Council, may, by notification in the official Gazette, declare that any portions of those provisions shall not apply to those Courts, or shall only apply to them with such modifications as the Local Government, with the sanction aforesaid, may prescribe.

“ (2) ‘ Revenue Court ’ in sub-section (1) means a Court having jurisdiction under any local law to entertain suits relating to the rent, revenue or profits of land used for agricultural purposes, but does not include a Civil Court having original jurisdiction under this Code to try such suits as being suits of a civil nature of which its cognizance is not barred by any enactment for the time being in force.”

Repeal of part of section 8.

4. The second paragraph of section 8^{xii/91/226} is hereby repealed.
and I

Addition to section 14.

5. To section 14 the following shall be added, namely:

“Where a suit is instituted in British India on the judgment of any foreign Court in Asia or Africa except a Court of Record established by Letters Patent of Her Majesty or any predecessor of Her Majesty or a Supreme Consular Court established by an Order of Her Majesty in Council, the Court in which the suit is instituted shall not be precluded from inquiry into the merits of the case in which the judgment was passed.”

Addition of new section after section 16.

6. The following shall be inserted after section 16, namely:—

“16A. (1) When it is alleged to be uncertain within the local limits of the jurisdiction of which of two or more Courts any immoveable property is situate, any one of those Courts may, if satisfied that there is ground for the alleged uncertainty, record a statement to that effect and thereupon proceed to entertain and dispose of any suit relating to that property, and its decree in the suit shall have the same effect as if the property were situate within the local limits of its jurisdiction:

“ Provided that the suit is one with respect to which the Court is competent as regards the nature and value of the suit to exercise jurisdiction.

“(2) Where a statement has not been recorded under sub-section (1), and an objection is taken before an appellate or revisional Court that a decree or order in a suit relating to such property was made by a Court not having jurisdiction where the property is situate, the appellate or revisional Court shall not allow the objection if in its opinion there was, at the time of the institution of the suit, any reasonable ground for uncertainty as to the Court having jurisdiction with respect thereto.”

Addition to section 17.

7. In section 17, after Explanation II., the following shall be inserted, namely :—

“EXPLANATION III.—In suits arising out of contract, the cause of action arises within the meaning of this section at any of the following places, namely :—

- (i) the place where the contract was made ;
- (ii) the place where the contract was to be performed or performance thereof completed ;
- (iii) the place where in performance of the contract any money to which the suit relates was expressly or impliedly payable.”

8. In section 27 there shall be inserted after the words “the Court may” the words “at any stage of the suit”, and after the words “any other person or persons” the words “with his or their consent”.

Substitution of new section for section 53.

9. For section 53 the following shall be substituted, namely :—

When plaint may be rejected, returned for amendment or amended.

“53. The plaint may at the discretion of the Court,—

- (a) at, or at any time before, the settlement of issues be rejected if it does not disclose a cause of action ;
- (b) at, or at any time before, the settlement of issues be returned for amendment within a time to be fixed by the Court, and upon such terms as to the payment of costs occasioned by such amendment as the Court thinks fit, if it—
 - (i) is not signed and verified as hereinbefore required,
 - (ii) does not state correctly and without prolixity the several particulars hereinbefore required, or contains particulars other than those so required,
 - (iii) is wrongly framed by reason of nonjoinder or misjoinder of parties, or joins causes of action which ought not to be joined in the same suit, or
 - (iv) is not framed in accordance with the provisions of section 42 ;

(c) at any time before judgment be amended by the Court upon such terms as to the payment of costs as the Court thinks fit :

“ Provided that a plaint shall not be amended either by the party to whom it is returned for amendment, or by the Court, so as to convert a suit of one character into a suit of another and inconsistent character.

“ When a plaint is amended under this section the amendment shall be attested by the signature of the Judge.”

Substitution of new section for section 72.

10. For section 72 the following shall be substituted, namely :—

“ 72. (1) If the defendant resides within the jurisdiction of the Court in which the suit is instituted, or has an agent resident within that jurisdiction who is empowered to accept the service of the summons, the summons shall ordinarily be delivered or sent to the proper officer to be served by him or one of his subordinates.

“ (2) The proper officer may be an officer of another Court than that in which the suit is instituted, and, where he is such an officer, the summons may, subject to any rules which the High Court may make in this behalf, be sent to him by post or in such other manner as the Court may direct.”

Amendment of section 82. 11. In section 82, for the first twenty words the following shall be substituted, namely :—

“ When a summons is returned under section 80, the Court shall if the return under that section has not been verified by the affidavit of the serving-officer, and may if it has been so verified, examine the serving-officer on oath, or cause him to be so examined by another Court, touching his proceedings.”

Substitution of new section for section 90.

12. For section 90 the following shall be substituted, namely :—

“ 90. If there is a British Resident or Agent, or a Superintendent appointed by the British Government, or a Court established or continued by the authority of the Governor General in Council, in or for the territory in which the defendant resides, the summons may be sent to such Resident, Agent, Superintendent or Court, by post or otherwise, for the purpose of being served upon the defendant ; and, if the Resident, Agent or Superintendent or the Judge of the Court returns the summons with an endorsement under his hand that the summons has been served on the defendant in manner hereinbefore directed, such endorsement shall be evidence of the service.”

Substitution of new sections for sections 141 and 142.

13. For sections 141 and 142 the following shall be substituted, namely :—

"141. (1) Subject to the provisions of the next following sub-section, there shall be endorsed on every document which has been admitted in evidence in the suit the following particulars, namely :

Endorsements on documents admitted in evidence.

- (a) the number and title of the suit,
- (b) the name of the person producing the document,
- (c) the date on which it was produced, and
- (d) a statement of its having been so admitted,

and the endorsement shall be signed by the Judge.

"(2) If a document so admitted is an entry in a book, account or record and a copy thereof has been substituted for the original under the next following section, the particulars aforesaid shall be endorsed on the copy and the endorsement thereon shall be signed by the Judge.

"141A. (1) If a document admitted in evidence in the suit is an entry in a shop-book or other account in current use, the party on whose behalf the account is produced may furnish a copy of the entry.

Endorsements on copies of admitted entries in books, accounts and records.

"(2) If such a document is an entry in a public record produced from a public office or by a public officer, or an entry in a book or account belonging to a person other than a party on whose behalf the book or account is produced, the Court may require a copy of the entry to be furnished—

- (i) where the record, book or account is produced on behalf of a party, then by that party, or
- (ii) where the record, book or account is produced in obedience to an order of the Court acting of its own motion, then by either or any party.

"(3) When a copy of an entry is furnished under the foregoing provisions of this section, the Court shall, after causing the copy to be examined, compared and attested in manner mentioned in section 62, mark the entry and cause the book, account or record in which it occurs to be returned to the person producing it.

"142. When a document relied on as evidence by either party is considered by the Court to be inadmissible in evidence, there shall be endorsed thereon the particulars mentioned in clauses (a), (b), and (c) of section 141, sub-section (1), and a statement of its having been rejected, and the endorsement shall be signed by the Judge.

Endorsements on documents rejected as inadmissible in evidence.

"142A. (1) Every document which has been admitted in evidence, or a copy thereof where a copy has been substituted for the original under section 141A, shall form part of the record of the suit.

Recording of admitted and return of rejected documents.

“(2) Documents not admitted in evidence shall not form part of the record and shall be returned to the parties respectively producing them.”

14. In section 143, for the words and figures “sections 62, 141 and 142” there shall be substituted the following, namely:—
Amendment of section 143.

“section 62, section 141A, sub-section (3), or section 142A, sub-section (2),”.

15. In section 159 the words “or sent” shall be inserted after the word “delivered”.
Amendment of section 159.

16. In section 168, for the words “shall examine the serving-officer on oath” the following shall be substituted, namely:—“shall if the certificate of the serving-officer has not been verified by affidavit, and may if it has been so verified, examine the serving-officer on oath, or cause him to be so examined by another Court.”.
Amendment of section 168.

17. The following shall be inserted after section 185, namely:—
Addition of new section after section 185.

“185A. (1) The Local Government may, by notification in the official Gazette, direct, with respect to any Judge specified in the notification, or falling under a description set forth therein, that evidence in cases in which an appeal is allowed shall, instead of being taken down in the manner prescribed in the foregoing sections, be taken down by him with his own hand in the English language.”
Power for Local Government to require evidence to be recorded in English.

“(2) Where a Judge is prevented by any sufficient reason from complying with a direction under sub-section (1), he shall record the reason and cause the evidence to be taken down in writing from his dictation in open Court.

“(3) Evidence taken down under sub-section (1) or sub-section (2) shall be in the form mentioned in section 182, and be read over and signed, and, as occasion may require, interpreted and corrected, as if it were evidence taken down under that section.

“(4) The Local Government may, by notification in the official Gazette, revoke or vary a direction notified under sub-section (1).”

18. For section 191 the following shall be substituted, namely:—
Addition to section 191.

“191. (1) Where the Judge taking down any evidence, or causing any memorandum to be made, under this Chapter, is prevented by death, transfer or other cause from concluding the trial of the suit, any suc-
Power to deal with evidence taken down by another Judge.

cessor to such Judge may deal with such evidence or memorandum as if he himself had taken it down or caused it to be made, and proceed with the suit from the stage at which his predecessor left it.

“(2) The provisions of sub-section (1) shall apply, so far as they can be made applicable, to a suit transferred under section 25 :

“Provided that a Court transferring a suit under that section may, if it thinks fit, direct that the Court to which the suit is transferred shall recall all or any of the witnesses who have been examined and take their evidence afresh.”

Addition to section 193. 19. To section 193 the following shall be added, namely :—

“A Court continuing a suit under section 191 may recall and re-examine a witness who has departed in accordance with section 173.”

Amendment of section 209. 20. (1) In section 209, for the first thirteen words the words “When a decree is for the payment of money” shall be substituted.

(2) To the same section the following shall be added, namely :—

“Where such a decree is silent with respect to the payment of further interest on such aggregate sum as aforesaid from the date of the decree to the date of payment or other earlier date, the Court shall be deemed to have refused such interest, and a separate suit therefor shall not lie.”

Amendment of section 216. 21. (1) In section 216, for the first twenty-four words the following shall be substituted, namely :—

“If the defendant has been allowed a set-off against the claim of the plaintiff,”

(2) To the same section the following shall be added, namely :—

“The provisions of this section shall apply whether the set-off is admissible under section 111 or otherwise.”

Amendment of section 223. 22. In section 223, for the words “in a case cognizable by a Court of Small Causes” the following shall be substituted, namely :—

“in a suit of which the value as set forth in the plaint did not exceed two thousand rupees and which, as regards its subject-matter, is not excepted by the law for the time being in force from the cognizance of either a Presidency or a Provincial Court of Small Causes.”

Amendment of section 229. 23. In section 229, after the word “established” the words “or continued” shall be inserted.

Addition of new section after section 229. 24. After section 229 the following shall be inserted, namely :—

229A. So much of the foregoing sections of this Chapter as empowers a Court to send a decree for execution to another Court shall be construed as empowering a Court in British India to send a decree for execution to any Court established or continued by the authority of the Governor General in Council in the territories of any Foreign Prince or State to which the Governor General in Council has, by notification in the Gazette of India, declared this section to apply."

Sending of decrees of British Indian Courts to British Courts in Native States.

Repeal of part of section 230.

25. The last paragraph of section 230 is hereby repealed. *27/9/1926/2nd L.P.*

Amendment of section 244.

26. (1) In section 244, for clause (c), the following shall be substituted, namely:—

"(c) any other questions arising between the parties to the suit in which the decree was passed, or their representatives, and relating to the execution, discharge or satisfaction of the decree or to the stay of execution thereof."

(2) To the same section the following shall be added, namely:—

"If a question arises as to who is the representative of a party for the purposes of this section, the Court may either stay execution of the decree until the question has been determined by a separate suit or itself determine the question by an order under this section."

Amendment of section 258.

27. For the last paragraph of section 258 the following shall be substituted, namely:—

"Unless such a payment or adjustment has been certified as aforesaid, it shall not be recognized as a payment or adjustment of the decree by any Court executing the decree."

Amendment of section 266.

28. (1) In the first proviso to section 266, clause (a), the words "and bedding" shall be inserted after the word "apparel".

(2) In the same proviso, clause (b), after the word "cattle" the words "and seed-grain" shall be inserted.

(3) In the same proviso, for clause (h) the following shall be substituted, namely:—

"(h) the salary of a public officer or of any servant of a Railway Company or local authority to the extent of—

(i) the whole of the salary where the salary does not exceed twenty rupees monthly;

(ii) twenty rupees monthly where the salary exceeds twenty rupees and does not exceed forty rupees monthly; and

(iii) one moiety of the salary in any other case."

(4) To the same proviso, after clause (i), the following shall be added, namely:—

“(m) any allowance declared by any law passed under the Indian Councils Act, 1861, by a Governor or a Lieutenant-Governor in Council to be exempt from liability to attachment or sale in execution of a decree ;

“(n) where the judgment-debtor is a person liable for the payment of land-revenue, any moveable property which under any law applicable to him is exempt from sale for the recovery of an arrear of such revenue.”

(5) In the explanation to the same proviso, for the word and letter “and (j)” the letters and word “(j) and (m)” shall be substituted.

XII/91 v. 20/6
Sd. I. P. C. Amendment of section 289.

29. In section 289 the words “on the spot where the property is attached” are hereby repealed.

Addition to section 320.

30. To section 320 the following shall be added, namely :—

“Rules under this section may confer upon the Collector or any gazetted subordinate of the Collector all or any of the powers which the Court might exercise in the execution of the decree if the execution thereof had not been transferred to the Collector, including the powers of the Court under sections 294 and 312, and may provide for orders passed by the Collector or any gazetted subordinate of the Collector, or orders passed on appeal with respect to such orders, being subject to appeal to and revision by superior Revenue-authorities as nearly as may be as the orders passed by the Court, or orders passed on appeal with respect to such orders, would be subject to appeal to and revision by appellate or revisional Courts under this Code or other law for the time being in force if the decree had not been transferred to the Collector.

“A power conferred by the rules upon the Collector or any gazetted subordinate of the Collector, or upon any appellate or revisional authority, shall not be exercisable by the Court or by any Court in exercise of any appellate or revisional jurisdiction which it has with respect to decrees or orders of the Court.

“In executing a decree transferred to the Collector under this section, the Collector and his subordinates shall be deemed to be acting judicially within the meaning of Act No. XVIII. of 1850 (*an Act for the protection of Judicial Officers*).”

31. (1) In section 349, for the words “is under arrest” the words “is in custody under the foregoing provisions of this Code” shall be substituted.

Amendment of Chapter XX.

(2) In section 354, between the word “and” and the words “shall operate” the words “every order under that section appointing a Receiver” shall be inserted.

(3) For the second paragraph of section 360 the following shall be substituted, namely :—

"A Court so invested may entertain an application under section 344 by any person who has been arrested or imprisoned, or against whose property an order of attachment has been made, in execution of a decree for money passed by that Court."

(4) At the end of Chapter XX. the following shall be inserted, namely :—

"360A. Nothing in this Chapter shall apply to any Court having jurisdiction within the limits of the town of Calcutta, Madras or Bombay."

Inapplicability of this Chapter to presidency-towns.

Amendment of Chapter XXI. 32. (1) For sections 363 and 364 the following shall be substituted, namely :—

"363. If there are more plaintiffs than one, and any of them dies, and if the right to sue does not survive to the surviving plaintiff or plaintiffs alone but survives to him or them and the legal representative of the deceased plaintiff jointly, the Court may cause the legal representative, if any, of the deceased plaintiff to be made a party, and shall thereupon cause an entry to that effect to be made on the record and proceed with the suit."

Procedure where one of several plaintiffs dies and right to sue does not survive to surviving plaintiffs alone.

(2) For section 365 the following shall be substituted, namely :—

"365. In case of the death of a sole plaintiff or sole surviving plaintiff, the legal representative of the deceased may, where the right to sue survives, apply to the Court to have his name entered on the record in place of the deceased plaintiff, and the Court shall thereupon enter his name and proceed with the suit."

Procedure in case of death of sole or sole surviving plaintiff.

(3) To section 368 the following shall be added, namely :—

"The legal representative of a deceased defendant may apply to have himself made a defendant in place of the deceased defendant, and the provisions of this section, so far as they are applicable, shall apply to the application and to the proceedings and consequences ensuing thereon."

(4) After section 372 the following shall be added, namely :—

"372A. The provisions of section 5 of the Indian Limitation Act, 1877, applicable to appeals shall apply to applications under sections 365, 366, 368 and 371."

Power for Court to extend period of limitation prescribed for certain applications.

Addition to section 381.

33. To section 381 the following shall be added, namely :—

"or show good cause why such time should be extended, in which case the Court may extend it."

“Where a suit is dismissed under this section, the plaintiff may apply for an order to set the dismissal aside, and, if it is proved to the satisfaction of the Court that he was prevented by any sufficient cause from furnishing the security within the time allowed, the Court shall set aside the dismissal upon such terms as to security, costs or otherwise as it thinks fit, and shall appoint a day for proceeding with the suit.

“The dismissal shall not be set aside unless the plaintiff has served the defendant with notice in writing of his application.

“The provisions of the Indian Limitation Act, 1877, with respect to an application under section 103, and of this Code with respect to an appeal from an order rejecting such an application, shall apply, so far as they can be made applicable, to an application under this section for an order to set aside the dismissal of a suit, and to an appeal from an order rejecting such an application, respectively.”

34. In section 386, for the words “or to any pleader of a High Court whom the Court issuing the commission thinks fit to appoint” the following shall be substituted, namely :—

“or to any pleader or other person whom the Court issuing the commission may, subject to any rules of the High Court in this behalf, think fit to appoint.”

35. In section 419, after the words “Government Pleader in any Court” the words “or such other person as the Local Government may for any Court appoint in this behalf” shall be inserted.

36. In section 424, after the words “intending plaintiff” the words “and the relief which he claims” shall be inserted.

37. (1) In section 432, after the words “British India” the following shall be inserted, namely :—

“or at the request of any person competent in the opinion of the Government to act on behalf of such Prince or Chief.”

(2) To the same section the following shall be added, namely :—

“An appointment under this section may be made for the purpose of a specified suit or of several specified suits, or for the purpose of all such suits as it may from time to time be necessary to prosecute or defend on behalf of the Prince or Chief.

“A person appointed under this section may authorise or appoint persons to make and do appearances, applications and acts in any such suit or suits as if he were himself a party to the suit or suits.”

Substitution of new section
for section 433.

38. For section 433 the following shall
be substituted, namely :—

“433. (1) Any such Prince or Chief, and any ambassador or envoy of a Foreign State, may, with the consent of the Governor General in Council, certified by the signature of one of the Secretaries to the Government of India (but not without such consent), be sued in any competent Court.

“ (2) Such consent may be given with respect to a specified suit or to several specified suits, or with respect to all suits of any specified class or classes, and may specify, in the case of any suit or class of suits, the Court in which the Prince, Chief, ambassador or envoy may be sued ; but it shall not be given unless the Prince, Chief, ambassador or envoy—

(a) has instituted a suit in the Court against the person desiring to sue him, or

(b) by himself or another trades within the local limits of the jurisdiction of the Court, or

(c) is in possession of immoveable property situate within those limits and is to be sued with reference to such possession or for money charged on that property.

“ (3) No such Prince, Chief, ambassador or envoy shall be arrested under this Code, and, except with the consent of the Governor General in Council certified as aforesaid, no decree shall be executed against the property of any such Prince, Chief, ambassador or envoy.

“ (4) The Governor General in Council may, by notification in the Gazette of India, authorise a Local Government and any Secretary to that Government to exercise, with respect to any Prince, Chief, ambassador or envoy named in the notification, the functions assigned by the foregoing sub-sections to the Governor General in Council and a Secretary to the Government of India, respectively.

“ (5) A person may, as a tenant of immoveable property, sue, without such consent as is mentioned in this section, a Prince, Chief, ambassador or envoy from whom he holds or claims to hold the property.”

39. (1) Section 434 shall become section 229B, and any reference made before the commencement of this Act in any notification or other document to section 434 shall be read as a reference to section 229B.

Transposition and amendment
of section 434.

(2) In section 229B, the words “ or continued ” shall be inserted after the word “ established ”.

Insertion of new section 434.

40. After section 433 the following section shall be inserted, namely :—

Style of Princes and Chiefs as parties to suits.

“434. A Sovereign Prince or ruling Chief may sue, and shall be sued, in the name of his State :

“Provided that in giving the consent referred to in the last foregoing section the Governor General in Council or Local Government, as the case may be, may direct that any such Prince or Chief shall be sued in the name of an agent or in any other name.”

XII/91.2.11
17th 1/91 Addition to section 464.

41. To section 464 the following shall be prefixed, namely :—

“Nothing in this Chapter applies to a Sovereign Prince or ruling Chief suing or being sued in the name of his State or being sued, by direction of the Governor General in Council or a Local Government, in the name of an agent or any other name, and”.

Princes and Chiefs and wards of Court.

42. In section 503, clause (d), the words “as the Court thinks fit” shall be inserted after the words “by way of remuneration”.

Amendment of section 503.

43. In section 504, for the words “the Court may appoint the Collector” the words “the Court may, with the consent of the Collector, appoint him” shall be substituted.

Amendment of section 504.

44. In section 539, for the words “having a direct interest” the words “having an interest” shall be substituted.

Amendment of section 539.

45. To section 540 the following shall be added, namely :—

“An appeal may lie under this section from an original decree passed *ex parte*.”

Addition to section 540.

46. To section 549 the following shall be added, namely :—

“If such security be furnished, any costs for which a surety may have rendered himself liable may be recovered from him in execution of the decree of the Appellate Court in the same manner as if he were the appellant.”

Substitution of new section for section 551.

47. (1) For section 551 the following shall be substituted, namely :—

“551. (1) The Appellate Court, if it thinks fit, may, after fixing a day for hearing the appellant or his pleader and hearing him accordingly if he appears on that day, dismiss the appeal without sending notice of the appeal to the Court against whose decree the appeal is made and without serving notice on the respondent or his pleader.

"(2) If on the day fixed under sub-section (1) or any other day to which the hearing may be adjourned the appellant does not attend in person or by his pleader, the appeal shall be dismissed for default.

"(3) The dismissal of an appeal under this section shall be notified to the Court against whose decree the appeal is made."

(2) For the first paragraph of section 552 the following shall be substituted, namely :—

"Unless the Appellate Court dismisses the appeal under the last foregoing section, it shall fix a day for hearing the appeal."

(3) In section 558 the words and figures "section 551, sub-section (2)," shall be inserted before the word and figures "section 556".

Amendment of, and addition to, section 561. 48. (1) For the proviso to the first paragraph of section 561 the following shall be substituted, namely :—

"Provided he has filed the objection in the Appellate Court within one month from the date of the service on him or his pleader under section 553 of notice of the day fixed for hearing the appeal, or within such further time as the Appellate Court may see fit to allow."

(2) To the same section the following shall be added, namely :—

"Unless the respondent files with the objection a written acknowledgment from the appellant or his pleader of having received a copy thereof, the Appellate Court shall cause such a copy to be served, as soon as may be after the filing of the objection, on the appellant or his pleader, at the expense of the respondent.

"The provisions of Chapter XLIV. shall, so far as they can be made applicable, apply to an objection under this section."

49. (1) In section 562 the words "so as to exclude any evidence of fact which appears to the Appellate Court essential to the determination of the rights of the parties" are hereby repealed. ^{17/9/02(1)} ^{5 d.L.P.}

(2) In ⁵⁶² the same section, for the word "investigate" the word "determine" shall be substituted. ^{17/9/02(2)} ^{5 d.L.P.}

Repeal of section 563. 50. Section 563 is hereby repealed. ^{17/9/02(2)} ^{5 d.L.P.}

Amendment of section 565. 51. In section 565, for the word "shall" the word "may" shall be substituted.

52. (1) In section 566 the words "and the evidence upon the record is not sufficient to enable the Appellate Court to determine such issue or question" are hereby repealed. ^{17/9/02(2)} ^{5 d.L.P.}

Amendment of section 566. (2) In ⁵⁶⁶ the same section, between the words "the Appellate Court may" and the words "frame issues" the words "if necessary" shall be inserted. ^{17/9/02(2)} ^{5 d.L.P.}

53. (1) In section 582, for the words “the words ‘plaintiff,’ ‘defendant’ and ‘suit’ shall be held to include an appellant, a respondent and an appeal, respectively,” the following shall be substituted, namely :—

“the word ‘plaintiff’ shall be held to include a plaintiff-appellant or defendant-appellant, the word ‘defendant’ a plaintiff-respondent or defendant-respondent, and the word ‘suit’ an appeal”.

(2) In the same section, the words and figures “including those of section 372A,” shall be inserted after the words “The provisions hereinbefore contained”.

Addition to section 584.

54. To section 584 the following shall be added, namely :—

“An appeal may lie under this section from an appellate decree passed *ex parte*.”

Amendment of section 588.

55. (1) In section 588, clause (9), for the word “or” the word “for” shall be substituted.

(2) In the same section, clause (16), for the words “the first paragraph of” the words “and orders under” shall be substituted.

¹ *XII/9, 102(1)*
174 X 1021 56. The first paragraph of section 589, and the word “other” in the second paragraph of that section, are hereby repealed.

Repeal of part of section 589.

² *do. 102.* 57. Section 599, and in section 601 the words “within thirty days from the date of the order”, are hereby repealed.

Repeal of section 599 and part of section 601.

Addition to section 610.

58. After the second paragraph of section 610 the following shall be inserted, namely :—

“In so far as the order awards costs to the respondent, it may be executed against a surety therefor, to the extent to which he has rendered himself liable, in the same manner as it may be executed against the appellant :

“Provided that such notice in writing as the Court in each case thinks sufficient has been given to the surety.”

Addition to section 626.

59. To section 626 the following proviso shall be added, namely :—

“and

“(c) an application made under section 624 to the Judge who delivered the judgment may, if that Judge has ordered notice to issue under proviso (a) to this section, be disposed of by his successor.”

Addition of new sections after section 646.

60. After section 646 the following shall be inserted, namely :—

"646A. (1) If at any time before judgment a Court in which a suit has been instituted doubts whether the suit is cognizable by a Court of Small Causes or is not so cognizable, it may submit the record to the High Court with a statement of its reasons for the doubt as to the nature of the suit.

Power to refer to High Court questions as to jurisdiction in small causes.

the doubt as to the nature of the suit.

"(2) On receiving the record and statement the High Court may order the Court either to proceed with the suit or to return the plaint for presentation in such other Court as it may in its order declare to be competent to take cognizance of the suit.

"646B. (1) If it appears to a District Court that a Court subordinate thereto has, by reason of erroneously holding a suit to be cognizable by a Court of Small Causes or not to be so cognizable, failed to exercise a jurisdiction vested in it by law, or exercised a jurisdiction not so vested, the District Court may, and, if required by a party, shall, submit the record to the High Court with a statement of its reasons for considering the opinion of the subordinate Court with respect to the nature of the suit to be erroneous.

Power to District Court to submit for revision proceedings had under mistake as to jurisdiction in small causes.

the doubt as to the nature of the suit.

"(2) On receiving the record and statement, the High Court may pass such order in the case as it thinks fit.

"(3) With respect to any proceeding subsequent to decree in any case submitted to the High Court under this section, the High Court may make such order as in the circumstances appears to it to be just and proper.

"(4) A Court subordinate to a District Court shall comply with any requisition which the District Court may make for any record or information for the purposes of this section."

Amendment of, and addition to, section 648.

61. (1) For the third paragraph of section 648 the following shall be substituted:—

"and the Court making an arrest under this section shall send the person arrested to the Court by which the warrant of arrest was issued, unless he shows cause to the satisfaction of the former Court why he should not be sent to the latter Court, or unless he furnishes sufficient security for his appearance before the latter Court or (where the case is one under Chapter XXXIV.) for satisfying any decree that may be passed against him by that Court, in either of which cases the Court making the arrest shall release him."

(2) To section 648 the following shall be added, namely:—

"Where a person to be arrested or moveable property to be attached under this section is within the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Fort William in Bengal or at Madras or Bombay, or of the Court of the Recorder of Rangoon, the copy of

the warrant of arrest or of the order of attachment, and the probable amount of the costs of the arrest or attachment, shall be sent to the Court of Small Causes of Calcutta, Madras, Bombay or Rangoon, as the case may be, and that Court, on receipt of the copy and amount, shall proceed as if it were the District Court."

Amendment of section 650A. 62. In section 650A, the words "or continued" shall be inserted after the word "established".

Addition to section 652. 63. To section 652 the following shall be added, namely:—

"A High Court not established under the Statute 24 and 25 Victoria, Chapter 104 (*an Act for establishing High Courts of Judicature in India*), may, from time to time, with the previous sanction of the Local Government, make, with respect to any matter other than procedure, any rule which any High Court so established might under section 15 of that Statute make with respect to any such matter for any part of the territories under its jurisdiction which is not included within the limits of a presidency-town. Rules so made shall be published in the same manner, and shall thereupon have the same force, as rules made and published under this section for the regulation of matters connected with procedure."

Amendment of form No. 137, Schedule IV. 64. In form No. 137 of the fourth schedule the words "bound by the decree" shall be inserted after the words "remove any person".

65. (1) After clause (n) of section 17 of the Indian Registration Act, 1877, as amended by the Indian Registration Act, 1886, the following clause shall be added, namely:—

"(o) a certificate of sale granted to the purchaser of any property sold by public auction by a Civil or Revenue officer."

(2) In the second paragraph of section 50 of the same Act, for the word and letter "and (n)" the letters and word "(n) and (o)" shall be substituted.

(3) The Indian Registration Act, 1877, shall be construed as if the amendments made in it by this section had been made therein by Act XII. of 1879 (*An Act to amend the Code of Civil Procedure, the Registration Act, 1877, and the Limitation Act, 1877*):

Provided that nothing in this sub-section shall be deemed to affect a decree or order made by any Court before the commencement of this Act.

66. (1) No. 161 of the second schedule to the Indian Limitation Act, 1877, shall be transposed and become No. 173 A, and the entry against it in the second column of that schedule shall be "Ditto", signifying ninety days.

Amendment of the Indian Limitation Act, 1877.

(2) Nos. 171, 171A and 171B of the same schedule are hereby repealed. ^{21/9/20}

(3) For No. 171C of the same schedule the following shall be substituted, namely:—

Description of Application.	Period of Limitation.	Time from which period begins to run.
*	*	*
"171. Under section 371 of the Code of Civil Procedure, or under that section and section 582 of the same Code, for an order to set aside an order for abatement or dismissal.	Sixty days ...	The date of the order for abatement or dismissal."

(4). After No. 175 of the same schedule the following shall be inserted, namely:—

Description of Application.	Period of Limitation.	Time from which period begins to run.
*	*	*
"175A. Under section 365 of the Code of Civil Procedure by the legal representative of a deceased plaintiff, or under that section and section 582 of the same Code by the legal representative of a deceased plaintiff-appellant or defendant-appellant.	Six months...	The date of the death of the deceased plaintiff or of the deceased plaintiff-appellant or defendant-appellant.
"175B. Under section 366 of the Code of Civil Procedure by a defendant, or under that section and section 582 of the same Code by a plaintiff-respondent or defendant-respondent.	Ditto ...	The date of the death of the deceased plaintiff or of the deceased defendant-appellant or plaintiff-appellant.
"175C. Under section 368 of the Code of Civil Procedure to have the legal representative of a deceased defendant made a defendant, or under that section and section 582 of the same Code to have the legal representative of a deceased plaintiff-respondent or defendant-respondent made a plaintiff-respondent or defendant-respondent.	Ditto ...	The date of the death of the deceased defendant or of the deceased plaintiff-respondent or defendant-respondent."

Act No. VIII. of 1888.

RECEIVED THE ASSENT OF THE GOVERNOR GENERAL ON THE
5TH SEPTEMBER, 1888.

An Act to remove doubts as to the legality of the levy of certain Tolls.

WHEREAS doubts have been raised as to the operation of the Acts of the Governor General in Council, No. VIII. of 1851 (*an Act for enabling Govern-*

Act VIII.—S. 5 only of this Act is printed since the other sections do not relate to the Bombay Presidency. See Bom. Act III. of 1875.

1888. A 8 § 5—A 10 § 3

ment to levy Tolls on Public Roads and Bridges) and No. XV. of 1864 (an Act to amend Act VIII. of 1851) ; It is hereby enacted as follows :—

5. In section 2 of Act VIII. of 1851 ^{1/91 120} the words "~~and the Governor of the Presidency of Bombay in Council~~" ¹²⁰ are hereby ~~repealed~~, and the word "and" shall be inserted between the words "the Lieutenant-Governor of the North-Western Provinces of Bengal" and the words "the Governor of the Presidency of Fort St. George in Council".

Act No. IX. of 1888. (*Repeals Acts Nos. XIV. and XXVI. of 1868.*)

Act No. X. of 1888.

RECEIVED THE ASSENT OF THE GOVERNOR GENERAL ON THE
20TH SEPTEMBER, 1888.

^{1/83 54} *An Act to amend the Code of Civil Procedure* ² ~~and the Presidency~~
^{54 11 120} *Small Cause Courts Act, 1882.*

WHEREAS it is expedient to amend the Code of Civil Procedure ² ~~and the Presidency Small Cause Courts Act, 1882~~ ; It is hereby enacted as follows :—

¹ *Revision of the second schedule to Act XIV. of 1882.*

1. For the second schedule to the Code of Civil Procedure there shall be substituted the schedule in the first schedule to this Act.

² (1) To section 23 of the Presidency Small Cause Courts Act, 1882, the following shall be added, namely :—"Sub-
¹ *Amendment of Act XV. of 1882.*
ject to such control, the Court may modify or cancel any notification under this section as occasion may appear to it to require."

(2) For the second schedule to the same Act there shall be substituted the schedule in the second schedule to this Act.

(3) Any declaration which has been notified under the proviso to section 23 of the Presidency Small Cause Courts Act, 1882, before the day on which this Act is passed, and which was in force immediately before that day, shall, subject to the powers of the Court under that section, be construed, so far as may be, as referring to the schedule which has been substituted by the last foregoing sub-section for the second schedule to that Act.

¹ *Addition to section 589, Act XIV. of 1882.* 3. To section 589 of the Code of Civil Procedure the following shall be added, namely :—

"Provided that an appeal from an order specified in section 588, clause (17), shall lie—

- (a) to the District Court where the order was passed by a Court subordinate to that Court, and
 - (b) to the High Court in any other case."
4. Act VIII. of 1880 (*an Act to correct a clerical error in the Indian Limitation Act, 1877*) and section 26 of the Provincial Small Cause Courts Act, 1887, are hereby repealed.

THE FIRST SCHEDULE TO THIS ACT.

THE SECOND SCHEDULE TO THE CODE OF CIVIL PROCEDURE.

(See Section 5.)

CHAPTERS AND SECTIONS OF THIS CODE EXTENDING TO PROVINCIAL COURTS OF SMALL CAUSES.

PRELIMINARY : Sections 1, 2, 3 and 5.

CHAPTER I.—Of the Jurisdiction of the Courts and *Res Judicata*, except section 11 and the last paragraph of section 14.

CHAPTER II.—Of the Place of Suing, except section 20, paragraph 4, and sections 22 to 24 (both inclusive).

CHAPTER III.—Of Parties and their Appearances, Applications and Acts.

CHAPTER IV.—Of the Frame of the Suit, except section 42 and section 44, rule a.

CHAPTER V.—Of the Institution of Suits.

CHAPTER VI.—Of the Issue and Service of Summons, except section 77.

CHAPTER VII.—Of the Appearance of the Parties and Consequence of Non-appearance.

CHAPTER VIII.—Of Written Statements and Set-off.

CHAPTER IX.—Of the Examination of the Parties by the Court, except section 119.

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CHAPTER XIII.—Of Adjournments.

CHAPTER XIV.—Of the Summoning and Attendance of Witnesses.

CHAPTER XV.—Of the Hearing of the suit and Examination of Witnesses, except sections 182 to 188 (both inclusive).

CHAPTER XVI.—Of Affidavits.

CHAPTER XVII.—Of Judgment and Decree, except sections 204, 207, 211, 212, 213, 214 and 215.

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- CHAPTER XX.—Section 360, Power to invest certain Courts with Insolvency-jurisdiction.
- CHAPTER XXI.—Of the Death, Marriage and Insolvency of Parties.
- CHAPTER XXII.—Of the Withdrawal and Adjustment of Suits.
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- CHAPTER XXVI.—Suits by Paupers.
- CHAPTER XXVII.—Suits by and against Government or Government Servants.
- CHAPTER XXVIII.—Suits by Aliens and by and against Foreign and Native Rulers.
- CHAPTER XXIX.—Suits by and against Corporations and Companies.
- CHAPTER XXX.—Suits by and against Trustees, Executors and Administrators.
- CHAPTER XXXI.—Suits by and against Minors and Persons of unsound Mind.
- CHAPTER XXXII.—Suits by and against Military Men.
- CHAPTER XXXIII.—Interpleader.
- CHAPTER XXXIV.—Of Arrest and Attachment before Judgment, except as regards Immoveable Property.
- CHAPTER XXXVI.—Appointment of Receivers.
- CHAPTER XXXVII.—Reference to Arbitration.
- CHAPTER XXXVIII.—Of Proceedings on Agreement of Parties.
- CHAPTER XLVI.—Reference to and Revision by High Court.
- CHAPTER XLVII.—Of Review of Judgment, sections 623, 626 and 630.
- CHAPTER XLIX.—Miscellaneous.

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THE SECOND SCHEDULE TO THIS ACT.

THE SECOND SCHEDULE TO THE PRESIDENCY SMALL CAUSE COURTS ACT, 1882.

(See section 23.)

PORTIONS OF CIVIL PROCEDURE CODE EXTENDING TO COURT.

- PRELIMINARY : Section 2, Interpretation-clause.
- CHAPTER I.—Of the Jurisdiction of the Courts and *Res Judicata*, except section 11.
- CHAPTER II.—Of the Place of Suing, except sections 15 to 19 (both inclusive), section 20, paragraph 4, sections 22, 23 and 24, and section 25, paragraphs 2 and 3.
- CHAPTER III.—Of Parties and their Appearances, Applications and Acts, except section 37, clause (b), and the last paragraph.
- CHAPTER IV.—Of the Frame of the Suit, except section 42 and section 44, rule a.
- CHAPTER V.—Of the Institution of Suits, except section 53, clause (b), sub-clause (iv.), section 55, section 57, clause (b), and sections 58 and 62.
- CHAPTER VI.—Of the Issue and Service of Summons, except, in section 64, the words "and the copies or concise statements required by section 58 have been filed," and sections 65 and 66.
- CHAPTER VII.—Of the Appearance of the Parties and Consequence of Non-appearance.

- CHAPTER VIII.**—Of Written Statements and Set-off, except sections 110, 112 and 113.
- CHAPTER IX.**—Of the Examination of the Parties by the Court, except section 119.
- CHAPTER X.**—Sending for Records and Production, &c., of Documents, sections 137 (except paragraph 2), 138, 140 (except the proviso and the last six words), 141, 141A, 142, 142A, sub-section (1), 143 and 145.
- CHAPTER XI.**—Settlement of Issues, sections 150 and 151.
- CHAPTER XII.**—Disposal of the Suit at the first Hearing, except sections 154 and 155.
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- CHAPTER XIV.**—Of the Summoning and Attendance of Witnesses, except sections 168, 169, 170 and 175.
- CHAPTER XV.**—Of the Hearing of the Suit and Examination of Witnesses, except sections 182 to 191 (both inclusive) and the second paragraph of section 193.
- CHAPTER XVI.**—Of Affidavits.
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- CHAPTER XVIII.**—Of Costs.
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- CHAPTER XXI.**—Of the Death, Marriage and Insolvency of Parties.
- CHAPTER XXII.**—Of the Withdrawal and Adjustment of Suits.
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- CHAPTER XXX.**—Suits by and against Trustees, Executors and Administrators.
- CHAPTER XXXI.**—Suits by and against Minors and Persons of Unsound Mind.
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- CHAPTER XXXIV.**—Of Arrest and Attachment before Judgment, except as regards the attachment of immoveable property.
- CHAPTER XXXV.**—Interlocutory Orders, sections 498, 499, 500 and 502.
- CHAPTER XXXVI.**—Appointment of Receivers, section 503.
- CHAPTER XXXVII.**—Reference to Arbitration, except the provisions of section 522 as to appeals.
- CHAPTER XXXVIII.**—Of Proceedings on Agreement of Parties, except so much of section 527, clause (b), as relates to immoveable property.
- CHAPTER XLVI.**—Of Reference to and Revision by High Court.
- CHAPTER XLIX.**—Miscellaneous.

Act No. XI. of 1888.

RECEIVED THE ASSENT OF THE GOVERNOR GENERAL ON THE
5TH OCTOBER, 1888.

An Act to make an addition to the Indian Telegraph Act, 1885.

WHEREAS it is expedient to make an addition to the Indian Telegraph Act, 1885 ; It is hereby enacted as follows :—

Addition of section to Act XIII.
of 1885.

1. The following section shall be added to that Act, namely :—

“ 34. (1) This Act, in its application to the presidency-towns, shall be read as if for the words ‘District Magistrate’ in section 16, sub-section (1), and section 17, sub-sections (2) and (3), for the words ‘Magistrate of the first or second class’ in section 18, sub-section (1), and for the word ‘Magistrate’ in section 18, sub-section (2), there had been enacted the words ‘Commissioner of Police’, and for the words ‘District Judge’ in section 16, sub-sections (3), (4) and (5), the words ‘Chief Judge of the Court of Small Causes’.

Application of Act to presidency-towns and Rangoon.

(2) (*Rangoon.*)

(3) The fee in respect of an application to the Chief Judge of a Presidency Court of Small Causes under sub-section (3) of section 16 shall be the same as would be payable under the Court-fees Act, 1870, in respect of such an application to a District Judge beyond the limits of a presidency-town, and fees for summonses and other processes in proceedings before the Chief Judge under sub-section (3) or sub-section (4) of that section shall be payable according to the scale set forth in the fourth schedule to the Presidency Small Cause Courts Act, 1882.”

Act No. XII. of 1888.

RECEIVED THE ASSENT OF THE GOVERNOR GENERAL ON THE
12TH OCTOBER, 1888.

An Act to supplement certain provisions of the City of Bombay Municipal Act, 1888, and of the Calcutta Municipal Consolidation Act, 1888.

WHEREAS it is expedient to supplement by legislation in the Council of the Governor General for making Laws and Regulations certain provisions of the City of Bombay Municipal Act, 1888, and of the Calcutta Municipal Consolidation Act, 1889 ; It is hereby enacted as follows :—

1. The City of Bombay Municipal Act, 1888, and the *Calcutta Municipal Consolidation Act*, 1889, shall, so far as

Confirmation of the City of Bombay Municipal Act, 1888, and the *Calcutta Municipal Consolidation Act*, 1889, so far as regards Benches, Magistrates and Courts of Small Causes.

regards—

(a) the jurisdiction thereby conferred upon Appellate Benches of Municipal Authorities and upon Presidency and other Magistrates and Courts of Small Causes or any Judge of such a Court, and

(b) the decisions, orders and other proceedings of those Benches, Magistrates and Courts or of any such Judge,

be as valid as if they had been passed by the Governor General of India in Council at a meeting for the purpose of making Laws and Regulations.

2. (1) If before or on the hearing of an appeal under section 217 of the City of Bombay Municipal Act, 1888, any

Reference of questions by the Chief Judge of the Bombay Small Cause Court to the Bombay High Court.

question of law or usage having the force of law, or the construction of a document, which construction may effect the merits, arises, on which the Chief Judge of the Court of Small Causes of Bombay entertains reasonable doubt, the Chief Judge may, either of his own motion or on the application of either or any of the parties, draw up a statement of the facts of the case and the point on which doubt is entertained, and refer the statement, with his own opinion on the point, for the decision of the High Court of Judicature at Bombay.

(2) When a reference is made to the High Court under sub-section (1), the provisions of sections 618 to 621, both inclusive, of the Code of Civil Procedure shall, so far as they can be made applicable, apply to the Chief Judge of the Court of Small Causes and to the High Court, respectively.

3. (1) An appeal shall lie to the High Court of Judicature at Bombay from a decision passed by the Chief Judge of the Court of Small Causes of Bombay under

Appeal to the Bombay High Court from certain orders of the Chief Judge of the Bombay Small Cause Court.

section 503 or section 504 of the City of Bombay Municipal Act, 1888, when the amount of the claim in respect of which the decision is passed exceeds two thousand rupees.

(2) The provisions of the Code of Civil Procedure with respect to appeals from original decrees shall, so far as they can be made applicable, apply to appeals under sub-section (1), and orders passed therein by the High Court may, on application to the Chief Judge of the Court of Small Causes, be executed by him as if they were decrees made by himself.

(3) A decision passed by the Chief Judge of the Court of Small Causes of Bombay under section 503 or section 504 of the City of Bombay Municipal Act, 1888, shall, if an appeal does not lie therefrom under sub-section (1), be final.

Appeal to the Bombay High Court from orders of Presidency Magistrates in Bombay.

4. (1) An appeal shall lie to the High Court of Judicature at Bombay from an order passed by a Presidency Magistrate under section 515 of the City of Bombay Municipal Act, 1888.

(2) The High Court may from time to time make rules for regulating the admission of appeals under sub-section (1) and the procedure to be followed in the adjudication thereof.

(3) When an appeal has been preferred to the High Court under this section, the Municipal Commissioner for the City of Bombay shall defer action upon the order of the Presidency Magistrate until the appeal has been disposed of :

(4) But, when the appeal has been disposed of, he shall forthwith give effect to the order passed therein by the High Court, or, if the order of the Presidency Magistrate has not been disturbed by the High Court, then to his order.

(5) When disposing of an appeal under this section the High Court may direct by whom the costs of the appeal are to be paid, and whether in whole or in what part or proportion.

(6) Costs so directed to be paid may, on application to a Presidency Magistrate, be recovered by him, in accordance with the direction of the High Court, as if they were a fine imposed by himself.

5. An appeal to the High Court of Judicature at Bombay under either of the two last foregoing sections shall, for the purposes of No. 156 of the second schedule to the Indian Limitation Act, 1877, be deemed to be an appeal under the Code of Civil Procedure in a case not provided for by No. 151 and No. 153 of that schedule.

Period of limitation for appeals to the Bombay High Court under the two last foregoing sections.

Act No. XIII. of 1888. (*Panjab.*)

Act No. XIV. of 1888. (*Oudh.*)

Act No. XV. of 1888. (*Burma.*)

Act No. XVI. of 1888. (*Repeals Act No. VII. of 1867.*)

An Act to amend the Indian Marine Act, 1887.

Amendment of section 2, Act
XIV. of 1887.

1. For sub-section (2) of section 2 of the Indian Marine Act, 1887, the following shall be substituted, namely :—

Acts Nos. XVIII. and XIX. of 1888. (*Burma.*)

Bombay Act No. I. of 1888.

*An Act to further amend the Bombay Local Boards Act, 1884, and the
Bombay District Municipal Act Amendment Act, 1884.* 7/02 24 2011
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WHEREAS it is expedient to further amend the Bombay Local Boards Act, 1884, and the ~~Bombay District Municipal Act Amendment Act, 1884~~, in manner hereinafter appearing; It is enacted as follows:—

1. To section 14 of the Bombay Local Boards Act, 1884, and to ~~section 18 of the Bombay District Municipal~~
Amendment of section 14, ~~Act Amendment Act, 1884,~~ the following
Bombay Act I. of 1884, and section ~~18,~~ the following
section 18, Bombay Act II. of 1884. words shall be added, viz. :—

“extensible, by order of the Governor in Council, to a term not exceeding in the aggregate three years and six months, if on any occasion the Governor in Council shall think fit, for reasons which shall be notified, together with the order, in the *Bombay Government Gazette*, so to extend the same.”

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2. ~~Any order made by the Governor in Council before this Act comes~~ into force for extending the term of office of the members of any local board or of the commissioners of any municipality, which would have been valid if this Act had been in force at the time it was made, shall have and be deemed to have had, from the date of the notification thereof in the *Bombay Government Gazette*, the same validity as if this Act had been then in force.

Bombay Act No. II. of 1888.

PUBLISHED BY THE GOVERNOR OF BOMBAY ON THE 29TH JUNE, 1888.

An Act to amend the Sind Village Officers Act, 1881.

WHEREAS it is expedient to amend the Sind Village Officers Act, 1881, in manner hereinafter appearing ; It is enacted as follows :—

Amendment of s. 2 of Bom. Act IV., 1881. 1. In section 2 of the said Act, after the word “both,” shall be added the words “and includes Kotárs or Tapedárs’ peons.”

Amendment of s. 3 of Bom. Act IV., 1881. 2. In section 3, after the word “Sind,” shall be added the words “or other authority prescribed by rule under section 8.”

Amendment of s. 6 of Bom. Act IV., 1881. 3. For the first seventeen words of section 6 of the said Act the following shall be substituted, *viz.* :

“For the purpose of defraying the salaries, emoluments and contingent expenditure of village officers appointed under this Act, and of providing the pensions, gratuities or compassionate allowances, if any, payable to such officers on retirement, and of giving, with the sanction of the Commissioner in Sind, occasional special rewards to headmen of villages and others, who have rendered good service towards the administration of the district.”

Amendment of s. 8 of Bom. Act IV., 1881. 4. In section 8 of the said Act, for clauses (a) and (b) the following shall be substituted, *viz.* :

“(a) determining the duties of the different village officers, and the authority by whom appointments of such officers may be made and cancelled ;

“(b) fixing the salaries and other remunerations of village officers, and regulating the payment of pensions, gratuities, or compassionate allowances on retirement to such classes of them and under such conditions as may appear expedient.”

Bombay Act No. III. of 1888.

Am 1/94
See Bom II/99. c. 2
Am 8/90 c. 2(2)
XI/88,
Bom I/03.

PUBLISHED BY THE GOVERNOR OF BOMBAY ON THE 14TH SEPTEMBER, 1888.

THE CITY OF BOMBAY MUNICIPAL ACT, 1888.

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An Act to consolidate and amend the law relating to the municipal government of the City of Bombay.

WHEREAS it is expedient to consolidate and amend the law relating to the municipal government of the City of Bombay ; It is enacted as follows:-

CHAPTER I.

PRELIMINARY.

Short title. 1. This Act may be cited as "The City of Bombay Municipal Act, 1888."

Extent. Except as is herein otherwise expressly provided, it extends only to the city of Bombay.

2. The enactments mentioned in schedule A are repealed to the extent specified in the third column of the said schedule :

Repeal of enactments.

Provided that :

- (a) all rules and by-laws made, all notifications published, all orders issued and all licenses and permissions granted under any of the said enactments and still in force shall, so far as they are consistent with this Act, be deemed to have been respectively made, published, issued and granted hereunder ; and
- (b) all debts and obligations incurred, all contracts entered into, and all matters and things engaged to be done by, with or for the municipal corporation before this Act comes into force shall be deemed to have been incurred, entered into, or engaged to be done by, with or for the municipal corporation constituted under this Act ; and
- (c) all rates, taxes and sums of money due to the corporation when this Act comes into force shall be deemed to be due to the corporation under this Act ; and
- (d) all suits or other legal proceedings, civil or criminal, instituted, or which might, but for the passing of this Act, have been instituted by or against the corporation or the commissioner, may be continued or instituted, subject to the provisions of section 13 of schedule R, as if this Act had not been passed ; and

Act III.—Act XII. of 1888 enacts that this Act shall, so far as regards—

(a) the jurisdiction thereby conferred upon Appellate Benches of Municipal Authorities and upon Presidency and other Magistrates and Courts of Small Causes or any Judge of such a Court, and

(b) the decisions, orders and other proceedings of those Benches, Magistrates and Courts or of any such Judge,

be as valid as if it had been passed by the Governor General of India in Council at a meeting for the purpose of making Laws and Regulations.

(e) all references made in any Act of the Governor of Bombay in Council to any of the said enactments shall be read as if made to this Act or to the corresponding portion thereof.

Definition of terms. 3. In this Act, unless there be something repugnant in the subject or context :

- “ The city ;” (a) “ the city ” means the city of Bombay ;
- “ The corporation ; ” (b) “ the corporation ” means the Municipal Corporation of the city of Bombay ;
- “ Councillor ;” (c) “ councillor ” means a member of the corporation duly elected or appointed under this Act ;
- (d) “ the commissioner ” means the Municipal Commissioner for the city of Bombay appointed under section 54 and includes an acting commissioner appointed under sub-section (3) of section 59 ;
- “ The commissioner ;”
- (e) “ deputy commissioner ” means a Deputy Municipal Commissioner appointed under section 55 and includes an acting deputy commissioner appointed under sub-section (3) of section 59 ;
- “ Deputy commissioner ;”
- (f) the “ police commissioner ” means the Commissioner of Police of Bombay ;
- “ The police commissioner ;”
- (g) “ justice ” means a justice of the peace for the town of Bombay appointed under the provisions of the Justices of the Peace Act, 1869, or of any other law for the time being in force in this behalf ;
- “ Justice ;”
- (h) “ fellow ” means a fellow of the University of Bombay ;
- “ Fellow ;”
- (j) “ justices’ election ” and “ fellows’ election ” mean, respectively, an election of a councillor by justices or by fellows ;
- “ Justices’ election ;”
- (k). “ licensed plumber ” and “ licensed surveyor ” mean, respectively, a person licensed by the commissioner for the purposes of this Act, as a plumber or surveyor, under section 355 ;
- “ Licensed surveyor ;”
- “ licensed plumber ;”
- (l) “ small cause court ” means the Court of Small Causes of Bombay ;
- “ Small cause court ; ”

- (m) "owner," when used in reference to any premises, means the person who receives the rent of the said premises, or who would be entitled to receive the rent thereof if the premises were let, and includes :
- "Owner ;"
- (i) an agent or trustee who receives such rent on account of the owner ; and
 - (ii) an agent or trustee who receives the rent of, or is entrusted with, or concerned for, any premises devoted to religious or charitable purposes ; and
 - (iii) a receiver, sequestrator or manager appointed by any court of competent jurisdiction to have the charge of, or to exercise the rights of an owner of, the said premises ;
- (n) a person is deemed "to reside" in any dwelling which he sometimes uses, or some portion of which he sometimes uses, though, perhaps, not uninterruptedly, as a sleeping apartment ;
- "To reside ;"
- and a person is not deemed to cease "to reside" in any such dwelling merely because he is absent from it, or has elsewhere another dwelling in which he resides, if there is the liberty of returning to it at any time and no abandonment of the intention of returning thereto ;
- (o) the term "public securities" means securities of the Government of India and any securities guaranteed by Government, securities of the Bombay Port Trust, securities issued under this Act and any Bombay municipal debentures or other securities heretofore issued ;
- "Public securities ;"
- (p) "tax" includes any impost leviable under this Act ;
- "Tax ;"
- (q) "vehicle" includes a carriage, cart, van, dray, truck, hand-cart and wheeled conveyance of any description capable of being used on the streets of the city ;
- "Vehicle ;"
- (r) "land" includes land which is built upon or covered with water ;
- "Land ;"
- (s) "building" includes a house, out-house, stable, shed, hut and every other such structure, whether of masonry, bricks, wood, mud, metal or any other material whatever ;
- "Building ;"
- (t) "waterwork" includes a lake, stream, spring, well, pump, reservoir, cistern, tank, duct, whether covered or open, sluice, main, pipe, culvert, engine and
- "Waterwork ;"

any machinery, land, building or thing for supplying, or used for supplying water ;

(u) "drain" includes a sewer, pipe, ditch, channel and any other device for carrying off sullage, excrementitious matter and polluted water or rain-water or sub-soil water ;

(v) "house-gully" means a passage or strip of land constructed, set apart or utilized for the purpose of serving as a drain or of affording access to a privy, urinal, cesspool or other receptacle for filthy or polluted matter, to municipal servants or to persons employed in the cleansing thereof or in the removal of such matter therefrom ;

(w) "street" includes any highway and any causeway, bridge, viaduct, arch, road, lane, footway, square, court, alley or passage, whether a thoroughfare or not, over which the public have a right of passage or access or have passed and had access uninterruptedly for a period of twenty years; and, when there is a footway as well as a carriage-way in any street, the said term includes both ;

(x) "public street" means any street heretofore levelled, paved, metalled, channelled, sewered or repaired by the corporation and any street which becomes a public street under any of the provisions of this Act ;

(y) "private street" means a street which is not a public street ;

(z) "nuisance" includes any act, omission, place, or thing which causes or is likely to cause injury, danger, annoyance or offence to the sense of sight, smelling or hearing or which is, or may be dangerous to life or injurious to health or property ;

(aa) "dangerous disease" means cholera and any endemic, epidemic or infectious disease by which the life of man is endangered ;

(bb) "official year" means the year commencing on the first day of April ;

(cc) "public holiday" means a day or other period of time on or during which, by an order of Government published in the *Bombay Government Gazette*, Government offices in the city are closed ;

(dd) "sub-section" and "clause" denote, respectively, a sub-section or clause of the section in which the word "Sub-section;" "Clause." occurs.

CHAPTER II.

THE MUNICIPAL CONSTITUTION.

Municipal Authorities.

Municipal authorities charged with execution of this Act. 4. The municipal authorities charged with carrying out the provisions of this Act are :

- (A), a corporation ;
- (B), a standing committee ;
- (C), a municipal commissioner.

(A) *The Municipal Corporation.*

Constitution of corporation. 5. (1) ~~On and after the first day of April, 1889,~~ ^{XV/4/89} the corporation shall consist of ^{22/4/89} seventy-two councillors, as follows (namely) :

- thirty-six elected at ward-elections ;
- sixteen elected by justices ;
- two elected by fellows ;
- two elected by the Bombay Chamber of Commerce ;
- sixteen appointed by Government.

(2) The corporation shall, by the name of "The Municipal Corporation of the city of Bombay," be a body corporate and have perpetual succession and a common seal, and by such name may sue and be sued.

Terms of office of Councillors ; Casual vacancies, &c.

6. (1) ² The first members of the corporation constituted according to ^{22/4/89} the provisions of section 5 shall come into office ^{22/4/89} on the first day of April, 1889.²

Day on which councillors are to come into office. (2) Councillors selected or appointed to succeed retiring councillors shall come into office on the day for the retirement of the councillors whom they are to succeed.

7. All members of the corporation constituted as aforesaid shall retire from office at noon on the first day of April ^{Day for retirement of councillors.} three years after they take office, which day is in this Act referred to as the day for retirement.

Re-eligibility of persons ceasing to be councillors. 8. Any person who ceases to be a councillor shall, unless disqualified, be re-eligible.

9. In the event of non-acceptance of office by a person elected or appointed to be a councillor or of the death, resignation or disqualification of a councillor, or of his becoming incapable of acting previous to the day for retirement, there

shall be deemed to be a casual vacancy in the office and such vacancy shall be filled up, as soon as it conveniently may be, by the election or appointment, as the case may be, of a person thereto, who shall hold office so long only as the councillor in whose place he is elected or appointed would have been entitled to hold it, if the vacancy had not occurred.

Publication of names of councillors in the *Bombay Government Gazette*.

10. The names of all persons elected or appointed to be councillors shall be published by the commissioner in the *Bombay Government Gazette*.

Qualifications and Disqualifications of Voters and Councillors,

11. (1) A person shall not be entitled to vote at a ward-election, unless he is enrolled in the municipal election roll as a voter of the ward for which such election is held.

Qualification of voters at ward-elections.

(2) A person shall not be entitled to be enrolled in the municipal election roll as a voter of any ward, unless such person :

(a) resides or is the owner of some building or land, in that ward ;
and

(b) has attained the age of twenty-one years ;

and unless such person, either :

(c) has been assessed to the qualifying tax for the half-year from the first day of April to the thirtieth day of September last preceding the preparation of the roll, at a rate of not less than thirty rupees per annum ; or

(d) is a graduate of some university in British India or in the United Kingdom,

(3) In clause (c) " the qualifying tax " means either the general tax or the tax on vehicles and animals, other than vehicles and animals plying for hire or kept for the purpose of being let for hire, levied according to the provisions hereinafter contained, or the aggregate of both the said taxes.

12. (1) A person shall not be entitled to vote at a justices' election, unless he is at the time of such election a justice and is enrolled as a justice in the municipal election roll.

Qualification of voters at justices' elections.

(2) A person shall not be entitled to be enrolled in the municipal election roll as a justice, unless he resides in the city.

13. (1) A person shall not be entitled to vote at a fellows' election, unless he is at the time of such election a fellow and is enrolled as a fellow in the municipal election roll.

Qualification of voters at fellows' elections.

(2) A person shall not be entitled to be enrolled in the municipal election roll as a fellow, unless he resides in the city.

14. (1) A person shall not be qualified to be elected at a ward-election to be a councillor, unless he is enrolled in the municipal election roll as a voter of some ward, or unless he is at the time of the election a justice or a fellow and is enrolled as a justice or as a fellow in the municipal election roll:

(2) Provided that :

- (a) if a joint stock company is enrolled in the said roll as a voter of a ward, such enrolment shall not be deemed to qualify any person to be elected to be a councillor ;
- (b) if the name of any other company or of a firm is enrolled in the said roll, any one person duly authorized by power-of-attorney to represent such company or firm shall be deemed to be qualified to be elected a councillor at a ward-election.

15. A person shall not be qualified to be elected to be a councillor at a justices' election or a fellows' election, or an election by the Bombay Chamber of Commerce, unless he is at the time of the election, a justice, or a fellow, or a member of the said chamber, as the case may be, and unless, in the case of a justice or a fellow, he is enrolled as such in the municipal election roll.

16. (1) A person shall be disqualified for being elected or appointed and for being a councillor if such person :

- (a) is of the female sex ; or
- (b) has been sentenced by any court to imprisonment or whipping for an offence punishable with imprisonment for a term exceeding six months, or to transportation, such sentence not having been subsequently reversed or quashed, and if and so long as such person's disqualification on account of such sentence has not been removed by an order which the Governor in Council is hereby empowered to make, if he shall think fit, in this behalf ;

or if and while such person :

- (c) is an uncertificated bankrupt or an undischarged insolvent ; or
- (d) is the commissioner or a deputy commissioner or a municipal officer or servant, or a licensed surveyor or plumber ; or
- (e) is the Chief Judge of the Small Cause Court or is acting in that capacity ; or
- (f) has directly or indirectly, by himself or his partner, any share or interest in any contract or employment with, by, or on behalf of the corporation.

(2) But a person shall not be so disqualified or be deemed to have any share or interest in such a contract or employment, by reason only of his having any share or interest in :

- (g) any lease, sale or purchase of land or any agreement for the same ; or
- (h) any agreement for the loan of money or any security for the payment of money only ; or
- (j) any newspaper in which any advertisement relating to the affairs of the corporation is inserted ; or
- (k) any joint-stock company which shall contract with or be employed by the commissioner on behalf of the corporation ; or
- (l) the occasional sale to the commissioner on behalf of the corporation to a value not exceeding in any one official year two thousand rupees, of any article in which he regularly trades.

(3) Nor shall the police commissioner be deemed to be so disqualified by reason of his office merely.

A person becoming disqualified to cease to be a councillor.

17. Any councillor who—

- (a) becomes disqualified for being a councillor for any reason mentioned in the last preceding section ; or
- (b) absents himself during three successive months from the meetings of the corporation, except from temporary illness or other cause to be approved by the corporation ;

shall cease to be a councillor and his office shall thereupon be vacant.

18. Whenever it is alleged that any councillor has become disqualified for office for any reason aforesaid, and such

Questions as to disqualifications to be determined by Chief Judge of the Small Cause Court.

councillor does not admit the allegation, or whenever any councillor is himself in doubt whether or not he has become disqualified for office, such councillor or any other councillor may, and the commissioner, at the request of the corporation shall, apply to the Chief Judge of the Small Cause Court ; and the said Chief Judge, after making such inquiry as he deems necessary, shall determine whether or not such councillor has become disqualified for being a councillor and his decision shall be conclusive.

Municipal Election Roll.

Preparation and revision of list of persons qualified to vote.

19. (1) ~~On or before the first day of October, 1888, and on or before each first day of October thereafter,~~ the commissioner shall

prepare a list of persons appearing to be entitled to be enrolled in the municipal election roll as voters of wards, justices and fellows respectively.

(2) The arrangement of the list shall be alphabetical and it shall be in three parts, namely, for voters of wards, justices and fellows, respectively, and may be otherwise subdivided as the commissioner shall from time to time deem convenient.

(3) The list of voters of wards shall be made in separate lists, called ward lists, one for each ward into which the city is divided as hereinafter provided, containing the names of persons entitled to be enrolled as voters of that ward. The ward lists and the list of justices and the list of fellows shall be collectively deemed to constitute one list.

(4) In preparing the ward lists the commissioner shall enter therein the names of the persons who have been assessed to the qualifying tax, whether such persons be individuals, companies, firms, undivided families or other associations or bodies of individuals, and shall also enter the names of persons who have been assessed as the trustees of any building or land.

(5) If individual members of any company, firm, undivided family or other association or body so entered or if trustees whose names are so entered have been assessed on their own separate account to the qualifying tax, the commissioner shall enter their names in the list separately.

(6) The commissioner shall publish the list, prepared as aforesaid, by causing a printed copy thereof to be fixed for public inspection in a conspicuous position on every municipal office on or before the ninth day of October and to be kept so fixed during the remaining days of October. Printed copies thereof shall also be delivered to any person requiring the same, on payment of such reasonable fee for each copy as shall from time to time be prescribed by the commissioner, with the approval of the standing committee, in this behalf.

(7) On or before each tenth day of October, the commissioner shall give notice by advertisement in the local newspapers of the publication of the said list and of the place at which and the fee for which copies of it may be obtained.

(8) Every person whose name is not in the list so published and who claims to have it inserted therein shall, on or before the first day of November, give notice in writing of his claim to the commissioner.

(9) Every person whose name is in the list may object to any other person as not being entitled to have his name retained therein. Every person objecting shall, on or before the first day of November, give to the commissioner and also give to the person objected to, or leave at his last known place of abode, notice in writing of the objection and of the nature thereof.

(10) If the name of any person is entered as a voter in more than one ward list, he may, by notice in writing, which he shall give to the commissioner, on or before the first day of November, choose for which one of those wards he shall be entitled to vote.

(11) If the name of an undivided family or of any association or body of individuals, other than a company or firm, has been entered in the list, or if the names of trustees being two or more in number, of any building or land have been so entered, any one individual person duly authorized in this behalf by the members of such family, association or body or by such trustees may, by notice in writing, which he shall give to the commissioner on or before the first day of November, apply that his name be entered in the list as the representative, for the purposes of the list, of such family, association, body or trustees.

(12) The commissioner shall, on some one of the first ten days of November, revise the list prepared as aforesaid.

(13) He shall for this purpose hear the claims, objections and applications which have been duly made as aforesaid in open office, giving three clear days' notice of the holding of the enquiry by written notice served upon each claimant, person objecting and applicant and upon each person objected to and also fixed on some conspicuous place in every municipal office.

(14) The commissioner shall insert in the list the name of every person who has duly claimed to have his name inserted therein and whose claim is proved to the commissioner's satisfaction.

(15) The commissioner shall expunge from the list the name of every person proved to his satisfaction to be dead and may correct any clerical error or omission in the list.

(16) Subject as aforesaid, the commissioner shall retain in the list the name of every person to whom objection has not been duly made.

(17) The commissioner shall also retain therein the name of every person objected to, unless the objector appears by himself or by some other person duly authorized by him in this behalf, in support of the objection.

(18) Where the objector so appears, the commissioner shall require proof of the qualification of the person objected to, and if within such reasonable time as the commissioner, subject to the provision of sub-section (22), fixes in this behalf, such person's qualification is not proved to his satisfaction, shall expunge his name from the list.

(19) The commissioner shall not retain the name of one person in more than one ward list. If any person whose name has been entered in more than one ward list has not chosen as aforesaid, the commissioner shall determine for which one of those wards he shall be entitled to vote. But this shall not be deemed to prevent the names of individual members of companies, firms, undivided families, or other associations or bodies, or of persons who are trustees, which have been separately entered in the list under sub-section (5), from being retained on the list for one ward each, in addition to the names of the companies, firms, undivided families or other associations or

bodies of which they are, respectively, members, or in addition to the names of the trustees, as the case may be, if such individuals or persons are entitled on their own separate account to have their names so retained.

(20) The name of one person may be separately entered and retained by the commissioner in the list as a voter of a ward and as a justice and as a fellow, or in any two of those capacities, if such person is entitled to be enrolled in the municipal election roll in all or both such capacities, as the case may be.

(21) If no individual person has applied as aforesaid to have his name entered in the list as the representative of an undivided family or other association or body, not being a company or a firm, or of two or more trustees of any building or land, the commissioner shall determine what individual person shall be entitled to represent such undivided family, or other association or body, or trustees, and enter his name in the list as the person qualified to vote or to be elected, in behalf of the undivided family or other association or body or of the trustees, as the case may be.

(22) The commissioner may adjourn the hearing of any matter under this section from time to time, so that no adjourned hearing be held after the tenth day of November.

20. In the event of the commissioner rejecting any claim, objection or choice duly made under the last preceding section, the claimant or objector or person aggrieved may, at any time within five days after such rejection, apply to the Chief Judge of the Small Cause Court, and the said Chief Judge shall, within twenty days after receipt of such application and after such inquiry as he deems necessary, make such order for correcting the list or otherwise as shall seem to him fit and his order shall be conclusive.

Appeals against commissioner's orders on revision of the list by whom to be heard.

21. (1) When the list prepared as aforesaid has been revised by the commissioner and corrected in compliance with any order passed in this behalf by the Chief Judge aforesaid, a printed copy thereof, signed by the commissioner, shall be the municipal election roll and shall come into operation on the tenth of December and continue in operation for the twelve months beginning on that day.

Completion of the municipal election roll.

(2) The municipal election roll shall be divided and arranged in the same manner as the list from which it is made up. The separate ward lists, when completed, as hereinbefore provided, shall be called ward rolls. The ward rolls and the justices' roll and the fellows' roll shall collectively be deemed to constitute the municipal election roll.

(3) Every person enrolled in the municipal election roll shall be deemed to be entitled to vote at a ward election or as a justice or fellow, as the case may be, provided, in the case of a justice or a fellow, that such person be

still a justice or fellow, as the case may be, at the time of the election; and every person not enrolled in the said roll shall be deemed to be not entitled so to vote.

(4) Printed copies of the municipal election roll shall be delivered to any person requiring the same, on payment of such reasonable fee for each copy as shall from time to time be prescribed by the commissioner, with the approval of the standing committee, in this behalf.

(5) If a municipal election roll is not made in due time, the municipal election roll in operation immediately before the time appointed for its preparation shall continue in operation until the new roll is made.

Elections of Councillors.

22. (1) General elections of councillors shall be fixed by the commissioner, subject to the provisions of section 23, to take place triennially on such days in the months of January and February as he shall think fit.

Dates of elections.

XVI/98-22 (1) & 50, 2 of 11 (2) ~~The first general elections shall be held in the year 1889.~~

(3) Elections to fill casual vacancies shall be fixed by the commissioner to take place on such days as he shall think fit as soon as conveniently may be after the occurrence of the vacancies.

23. The dates for all general elections shall be fixed in the following order and with the following intervals, namely:

first, the ward-elections shall be fixed to take place simultaneously for all the wards;

secondly, the day for the election by the Bombay Chamber of Commerce shall be fixed at an interval not exceeding twenty-one days after the day fixed for the ward-elections;

thirdly, the day for the justices' election shall be fixed at an interval not exceeding seven days after the day fixed for the election by the Bombay Chamber of Commerce;

fourthly, the day for the fellows' election shall be fixed at an interval not exceeding fourteen days after the day fixed for the justices' election.

24. (1) For the purposes of elections, the city shall be divided into wards and the number of councillors to be elected at ward-elections shall be apportioned over the said wards.

Division of the city into wards for purposes of elections.

(2) The corporation may, with the sanction of Government, from time to time alter the number and boundaries of the wards and re-apportion the councillors to be elected at ward-elections among the wards, but not so as that any such alteration or re-apportionment shall first have effect at a ward-election to fill a casual vacancy.

(3) Unless and until they are so altered or re-apportioned, the number and respective boundaries of the wards and the number of councillors to be elected for each ward shall be as specified in schedule B.

25. Fifteen days at least before the day fixed for a ward-election or for a justices' election, notice of such election shall be given by the commissioner. Such notice shall be given by advertisement in the *Bombay Government Gazette* and in the local newspapers, and, in the case of a ward-election, by posting placards in conspicuous places in the ward for which such election is to take place.

Notice to be given of days fixed for ward-elections and justices' elections.

Candidates at ward-elections and justices' elections must be nominated.

26. (1) Candidates for election at a ward-election or a justices' election must be duly nominated in writing in accordance with the provisions hereinafter contained.

Provisions regarding nominations.

(2) With respect to such nominations, the following provisions shall have effect, namely:—

- (a) The commissioner shall provide printed forms of nomination-papers, and any person entitled to vote at the election shall be supplied, at any time within seven days previous to the day fixed for the election, with as many such forms as may be required, free of charge ;
- (b) Each nomination-paper must state the name, abode and description of the candidate in full, and be subscribed by two persons entitled to vote at the election as proposer and seconder ;
- (c) Every nomination-paper subscribed as aforesaid must be delivered at the commissioner's office before five o'clock in the afternoon of the day fixed for the election ;
- (d) Each candidate must be nominated by a separate nomination-paper, but any person entitled to vote at the election may subscribe as many nomination-papers as there are vacancies to be filled, but no more ;
- (e) If any person nominated :
 - (i) is not enrolled in the municipal election roll as a voter of a ward or as a justice or as a fellow ; or
 - (ii) although enrolled in the municipal election roll as a justice or a fellow, has ceased to be a justice or a fellow ; or
 - (iii) is disqualified for being a councillor for any of the reasons set forth in section 16 ;
 the commissioner shall declare such person's nomination invalid ;
- (f) If there is no valid nomination, it shall be deemed that no councillor has been elected and proceedings for filling the vacancy or vacancies shall be taken under section 34 ;

- (g) If the number of valid nominations is less than that of the vacancies, the persons nominated shall be deemed to be elected and for the remaining vacancy or vacancies it shall be deemed that no councillor has been elected and proceedings for filling such vacancy or vacancies shall be taken under section 34 ;
- (h) If the number of valid nominations is the same as that of the vacancies, the persons nominated shall be deemed to be elected ;
- (j) If the number of valid nominations exceeds that of the vacancies, the election of councillors shall be made from among the persons nominated; and such election shall be termed " a contested election " ;
- (k) If, when two or more ward-elections are held simultaneously for different wards, any person is deemed, under clause (g) or clause (h), to be elected a councillor for more than one ward, he shall within twenty-four hours after receipt of written notice thereof from the commissioner, choose, by writing signed by him and delivered to the commissioner, or in his default, the commissioner shall, when the time for choice has expired, declare for which one of those wards he shall serve. The choice or declaration so made shall be conclusive, and such person's nomination for the ward or wards for which he is not to serve shall be deemed to be null and void ;
- (l) If, when ward-elections are held as aforesaid, any person who is deemed, under clause (g) or clause (h), to be elected a councillor for any one or more wards, has also been duly nominated for any one or more wards for which the number of nominations exceeds that of the vacancies, he shall within twenty-four hours after receipt of written notice thereof from the commissioner choose, by writing signed by him and delivered to the commissioner, whether he shall serve for the ward, or for any one of the wards for which he is elected, or will stand as a candidate at the contested election or elections for the other ward or wards. In his default, the commissioner shall, when the time for choice has expired, declare that he shall serve for the ward or for some one of the wards for which he is elected, and his nomination for any other ward shall be deemed to be null and void. If such person chooses, by writing as aforesaid, to stand as a candidate at the contested election or elections, his nomination for the ward or wards for which he is elected shall be deemed to be null and void. Any choice or declaration made under this clause shall be conclusive.

27. (1) When a ward-election or a justices' election is contested, a poll shall be taken seven days after the day fixed for the election. At such poll, the municipal election roll which was in operation on the day fixed for the election shall be deemed to be the roll to which reference must be made for the purposes of the election.

Poll to be taken when a ward-election or a justices' election is contested.

(2) At least four days before the day of the poll, the commissioner shall cause the names of all the persons validly nominated, with their respective abodes and descriptions and the names of the persons subscribing their respective nomination-papers as proposers and seconders, to be published in the *Bombay Government Gazette* and in the local newspapers.

Names of candidates validly nominated to be published.

28. With respect to contested ward-elections, the following provisions shall have effect, namely :

Provisions respecting contested ward-elections.

- (a) One or more polling-places shall be provided by the commissioner for each ward, as he thinks fit, and the commissioner may appoint such and so many polling-officers and other persons to assist at the poll as he shall think fit and, with the approval of the standing committee, pay them such reasonable remuneration for their services as he shall determine ;
- (b) The poll shall commence at nine o'clock in the forenoon and close at six o'clock in the afternoon of the same day ;
- (c) The commissioner shall have voting-papers, in such form as he from time to time thinks fit, printed, and the said forms shall be supplied to persons entitled to vote, on any of the four days (not being a Sunday or a public holiday) previous to the day of the poll at the municipal office and on the day of the poll at each polling-place, free of charge ;
- (d) At each election for any ward, every voter shall be entitled to a number of votes equal to the number of councillors to be elected at such election for such ward, and may give all such votes to one candidate, or may distribute them among the candidates, as he thinks fit ;
- (e) No vote shall be received for any candidate whose name has not been published by the commissioner, under sub-section (2) of section 27, as having been validly nominated ;
- (f) No vote shall be received from any person whose name is not enrolled in the ward-roll as a voter of the ward for which the election is being held ;
- (g) When the name in the ward-roll is that of a joint-stock company, a vote on behalf of the said company may be received from its secretary, agent or manager ;

- (h) When the name in the ward-roll is that of any company, other than a joint-stock company, or of a firm, a vote on behalf of such company or firm may be received from any person who produces to the polling-officer a power-of-attorney authorizing him to represent the said company or firm for the purpose of the election ;
- (j) The polling-officer shall, if required by two persons whose names are enrolled in the ward-roll, or by a candidate, put to any person offering to vote, at the time of his presenting his voting-paper, but not afterwards, the following questions, or either of them :
 - (i) Are you the person enrolled in the ward-roll as follows (*read the whole entry from the roll*) ?
 - (ii) Have you already voted at the present election (*add, in case of simultaneous elections in two or more wards, or at any election being at present held for any other ward*) ?
- (k) A person to whom either of the said questions is put shall be bound to answer the same truly. His voting-paper shall not be received until he has answered the question or questions so put to him ;
- (l) Except as aforesaid, no inquiry shall be permitted at a ward-election as to the right of any person to vote thereat ;
- (m) The answers or answer made by any person to whom the said questions or either of them are or is put, shall be recorded by the polling-officer under his signature in writing, and such writing, together with the said person's voting-paper, shall be forwarded by the polling-officer, at the close of the poll, separately from the voting-papers of the persons whose right to vote has not been challenged as aforesaid ; and the polling-officer shall direct the parties to any such challenge to appear, within three days after the poll, before the commissioner ;
- (n) The name of the person, or of every person for whom a voter votes and all other details prescribed by the form of the voting-paper shall be written legibly, in English, in the voting-paper, and the voter shall sign, or attach his mark to the voting-paper in the presence of the polling-officer ; and the said officer shall attest each such signature or mark and shall attach consecutive numbers to each of the voting-papers presented to him ;
- (o) After the close of the poll, the polling-officer shall forward all the voting-papers presented to him, in one or more packets

duly secured and sealed, to the commissioner, together with a list of the cases, if any, in which a person's right to vote has been challenged ;

- (p) The commissioner shall, as soon as may be, hear and decide upon all challenges and other objections, if any, to or regarding the poll, made to him in writing not later than five o'clock in the afternoon of the day after the poll, and cause lists to be prepared of the valid votes given for each candidate. The said lists and the voting-papers on which they are based shall be kept in the commissioner's office, unless called for in the meantime by the Chief Judge of the Small Cause Court for the purpose of any appeal, for three months ;
- (q) The person, or where there is more than one councillor to be elected, the persons not exceeding the number of councillors to be elected, who have the greatest number of valid votes, shall be deemed to be elected ;
- (r) Where an equality of such votes is found to exist between any candidates and the addition of a vote would entitle any of those candidates to be declared elected, the determination of the person or persons to whom such one additional vote shall be deemed to have been given shall be made by lot to be drawn in the presence of the commissioner in such manner as he shall determine ;
- (s) If a candidate is elected councillor for more than one ward, he shall, within twenty-four hours after receipt of written notice thereof from the commissioner, choose, by writing signed by him and delivered to the commissioner, or, in his default, the commissioner shall, when the time for choice has expired, declare for which of those wards he shall serve, and the choice or declaration shall be conclusive ;
- (t) When any such choice or declaration has been made, the votes recorded for the candidate aforesaid in any ward for which he is not to serve shall be deemed not to have been given, and the candidate, if any, who, but for the said votes, would have been declared elected for such ward, shall be deemed to have been duly elected for the same.

Provisions regarding justices' contested elections.

29. With respect to justices' contested elections the following provisions shall have effect, namely :—

- (a) The poll shall be taken at a meeting of the justices, of the time and place of which reasonable notice shall be given by the commissioner by advertisement in the *Bombay Government*

Gazette and in the local newspapers and which shall be presided over by such one of the justices present, as may be chosen by the meeting to be chairman for the occasion ;

- (b) Every person entitled to vote may vote by signing and personally delivering, at the meeting held in accordance with the notice given under clause (a), to the chairman of such meeting, a voting-paper containing the name in full of the candidate or of each of the candidates for whom he votes ;
- (c) Every voter shall be entitled to vote for any number of candidates not exceeding the number of vacancies ;
- (d) No vote shall be received for any candidate whose name has not been published by the commissioner, under sub-section (2) of section 27, as having been validly nominated ;
- (e) No vote shall be received from any person whose name is not enrolled in the justices' roll or who is not on the day of the meeting a justice ;
- (f) The chairman of the meeting, as soon as all the voting-papers of the justices present and voting have been delivered to him, shall close the meeting and shall, as soon as may be, cause lists to be prepared of the valid votes given for each candidate. The said lists and the voting-papers on which they are based, shall be delivered by the chairman of the meeting to the municipal secretary by whom, unless they are called for in the meantime by the Chief Judge of the Small Cause Court for the purpose of any appeal, they shall be kept for three months ;
- (g) The person, or where there is more than one councillor to be elected, the persons not exceeding the number of councillors to be elected, who have the greatest number of valid votes shall be deemed to be elected ;
- (h) In case of an equality of such votes, the chairman of the meeting shall have a second or casting vote ;
- (j) The chairman of the meeting shall make a return in duplicate to the commissioner setting forth the name in full of every person elected at the meeting.

30. (1) Elections of councillors by fellows shall be made, subject to the

Proceedings at fellows' elections.

provisions of section 15, in such manner as shall from time to time be determined at a meeting of the senate of the University of Bombay convened in accordance with the rules at the time in force in this behalf: Provided that no vote shall be received from any person whose name is not enrolled in the fellows' roll or who is not on the day of the meeting a fellow.

(2) The registrar of the university shall make a return in duplicate to the commissioner setting forth the name, abode and description of every person so elected.

31. (1) Elections of councillors by the Bombay Chamber of Commerce shall be made by the members for the time being of the said chamber, subject to the provisions of section 15, in such manner as shall from time to time be determined at a meeting of the said chamber convened in accordance with the rules at the time in force in this behalf.

(2) The secretary to the said Chamber shall make a return in duplicate to the commissioner setting forth the name in full of every person so elected.

32. (1) The result of every election shall be declared by fixing, as soon as may be after the election, in some conspicuous place on the chief municipal office, a notice certifying the names of the persons, if any, elected and, in the case of a contested election, the number of votes recorded for each candidate.

(2) The said notice shall be signed, in the case of a ward-election and in the case of a justices' election which is not contested, by the commissioner, in the case of a contested justices' election, by the chairman of the meeting of justices at which the election took place, in the case of a fellows' election, by the registrar of the University of Bombay, and in the case of an election by the Bombay Chamber of Commerce, by the secretary of that Chamber.

33. (1) If the qualification of any person declared to be elected for being a councillor is disputed, or if the validity of any election is questioned, whether by reason of the improper rejection by the commissioner of a nomination or of the improper reception or refusal of a vote, or for any other cause, any person enrolled in the municipal election roll may at any time, within eight days after the result of the election has been declared, apply to the Chief Judge of the Small Cause Court.

(2) If the said Chief Judge, after making such inquiry as he deems necessary, finds that the election was a valid election and that the person whose election is objected to is not disqualified, he shall confirm the declared result of the election. If he finds that the election was not a valid election he shall set it aside, so far as concerns the person whose election is objected to. If he finds that there is no objection to the validity of the election-proceedings, but that the person whose election is objected to is disqualified for being a councillor, he shall declare such person's election null and void, and direct that the candidate, if any, in whose favour the next highest number of votes was recorded after the said person, or after all the persons who were returned as elected at the said election, shall be deemed to have been elected.

(3) The said Chief Judge's order shall be conclusive.

(4) If he sets aside an election or if, when he declares a person who has been declared elected disqualified for being a councillor, there is no other candidate who can be deemed to have been elected, proceedings for filling the vacancy or vacancies shall be taken under section 34.

(5) Every election not called in question in accordance with the foregoing provisions shall be deemed to have been to all intents a good and valid election.

34. (1) If from any cause no councillor is elected at any general election, ~~not being one of the first general elections~~

Procedure if election fails. ~~held in accordance with this Act,~~ the retiring councillor or councillors shall, if willing to serve, be deemed to be re-elected.

(2) If, in any such case, the retiring councillor is not willing to serve, or some of the retiring councillors are willing to serve and some are not, or

if, in the case ² of a first general election held in accordance with this Act, or of an election to fill a casual vacancy, no councillor is elected, or

if, in the case of any election, an insufficient number of councillors are elected,

the commissioner shall without delay inform the corporation of the circumstances, and thereupon the corporation, so far as it is constituted, may appoint a duly qualified person to fill the vacancy, or each vacancy, as the case may be, and if the corporation shall fail within fifteen days after receipt of such information to appoint a person as aforesaid, the commissioner shall appoint another day for holding a fresh election.

(3) A fresh election held under this section shall be held subject in all respects to the same provisions as if it were an election to fill a casual vacancy

Appointment of Councillors by Government.

35. (1) ³ ~~The first appointment of councillors by Government under this~~
Government appointments of chapter shall be made not less than seven days
councillors when to be made. ~~before the first day of April, 1889.~~

(2) Subsequent appointments of councillors by Government to succeed retiring councillors shall be made triennially not less than seven days before the day for retirement.

(3) Appointments of councillors by Government to fill casual vacancies shall be made as soon as conveniently may be after the occurrence of such vacancies.

Proceedings of the Corporation.

36. The corporation shall meet for the despatch of business and shall from time to time make such regulations with respect to the summoning-notice, place, management and adjournment of such meetings,

Provisions regulating the corporation's proceedings.

and generally with respect to the mode of transacting and managing the business of the corporation as they think fit, subject to the following conditions :

- (a) there shall be one ordinary meeting in each month ; the ordinary meeting in the month of March shall be held not later than on the twentieth day of that month ;
- (b) the first meeting in the month of April, after general elections, shall be held as early as conveniently may be in the said month on a day and at a time and place to be fixed by the commissioner, and if not held on that day shall be held on some subsequent day to be fixed by the commissioner ;
- (c) the day, time and place of meeting shall in every other case be fixed by the president of the corporation, or in the event of the office of president being vacant, or of the death or resignation of the president, or of his ceasing to be a councillor, or of his being incapable of acting, by the chairman of the standing committee ;
- (d) the president of the corporation or, in any such event as aforesaid, the chairman of the standing committee may, whenever he thinks fit, and shall, upon a written requisition signed by not less than sixteen councillors or by not less than four members of the standing committee, call a special meeting ;
- (e) every meeting shall be open to the public, unless a majority of the councillors present thereat decide by a resolution, which shall be put by the presiding authority, of his own motion or at the request of any councillor present, without previous discussion, that any inquiry or deliberation pending before the corporation is such as should be held in private, and provided that the presiding authority may at any time cause any person to be removed who interrupts the proceedings ;
- (f) if at any time during a meeting it shall be brought to the notice of the presiding authority that the number of councillors present falls short of twenty, inclusive of the presiding authority, the presiding authority shall adjourn the meeting to some other day, fixing such time and place for the same as he shall think convenient, and the business which remains undisposed of at such meeting shall be disposed of at the adjourned meeting or, if the latter meeting should be again adjourned, at any subsequent adjourned meeting, whether there be a quorum of twenty members present thereat or not ;

- (g) every meeting shall be presided over by the president, if he is present at the time appointed for holding the same, and if the office of president is vacant, or if the president is absent, by such one of the councillors present as may be chosen by the meeting to be chairman for the occasion ;
- (h) at least seven clear days' notice shall ordinarily be given of every meeting, other than an adjourned meeting, but in cases of urgency any such meeting may be called, except for the purpose of considering an annual budget-estimate, in pursuance of a written requisition signed by not less than four members of the standing committee, upon a notice of not less than three clear days ; of adjourned meetings such previous notice shall be given as shall be practicable, having regard to the period of the adjournment ;
- (j) every notice of a meeting shall specify the time and place at which such meeting is to be held and the business to be transacted thereat and shall be given by the municipal secretary by advertisement in the local newspapers and, except in the case of adjourned meetings or of meetings called upon a requisition of urgency, in the *Bombay Government Gazette* ;
- (k) any councillor who desires at any meeting to bring forward any business, or to make any substantive proposition, which is not already specified in the notice of such meeting, shall give written notice of the same to the municipal secretary at least three clear days before the day fixed for the meeting ; and a supplementary announcement of the business or propositions, of which notice has been so given, shall be given by the said secretary in not less than one local daily newspaper not later than the day previous to the meeting ;
- (l) except at a meeting called on a requisition of urgency or at the discussion at any meeting of a budget-estimate, no business shall be transacted at any meeting other than the business specified in the notice published under clause (j) or urgent business not specified in the said notice which the standing committee or the commissioner deem it expedient to bring before the meeting, and no substantive proposition shall be made or discussed which is not specified in the said notice or in the supplementary announcement, if any, published under clause (k), or which is not in support of the recommendation of the standing committee or of the commissioner with reference to any urgent business brought by either of those authorities, respectively, before the meeting : provided that

no such urgent business as aforesaid shall be brought before any meeting, unless at least three-fourths of the councillors present at such meeting, such three-fourths being not less than fifteen in number, assent to its being brought forward thereat ;

(m) at a meeting called on a requisition of urgency and during the discussion at any meeting of a budget-estimate, no business shall be transacted and no substantive proposition shall be made or discussed which does not directly relate to the business for which the urgent meeting was called, or to the budget-estimate, as the case may be ; and no proposition involving any change in the taxes which the standing committee propose to impose, or an increase or decrease of any item of expenditure in a budget-estimate, shall be made or discussed at any meeting at which such budget-estimate is under consideration, unless such proposition is specified in the notice of the meeting published under clause (j) or in the supplementary announcement, if any, published under clause (k), or unless, in the case of an adjourned meeting, each of the conditions mentioned in the proviso to clause (n) has been fulfilled ;

(n) any meeting may, with the consent of a majority of the councillors present, be adjourned from time to time, but no business shall be transacted and, except as is hereinafter provided, no proposition shall be discussed at any adjourned meeting other than the business and propositions remaining undisposed of at the meeting from which the adjournment took place : provided that at any adjourned meeting at which a budget-estimate is under consideration a proposition involving any change such as is described in clause (m); may be made and discussed, notwithstanding that such proposition is not one remaining undisposed of at the meeting from which the adjournment took place, if each of the following conditions has been fulfilled (namely):

(i) that written notice of such proposition has been given at the meeting from which the adjournment took place ;

(ii) that the adjournment has been for not less than three clear days ; and

(iii) that a special announcement of the proposition has been given by the municipal secretary (who shall be bound to give such announcement) in not less

than one local daily newspaper not later than the day previous to the adjourned meeting ;

- (o) a minute of the names of the councillors present and of the proceedings at every meeting shall, on the day following the meeting, or as soon thereafter as may be, be drawn up and fairly entered by the municipal secretary in a book to be provided for this purpose and shall be signed at, and by, the presiding authority of, the next ensuing meeting ; and the said minute-book shall at all reasonable times be open at the chief municipal office to inspection by any councillor free of charge, and by any other person on payment of a fee of eight annas ;
- (p) a councillor shall not vote or take part in the discussion of any matter before a meeting in which he has, directly or indirectly, by himself or by his partner, any share or interest such as is described in clauses (g) to (l), both inclusive, of section 16, or in which he is professionally interested on behalf of a client, principal or other person ;
- (q) every question other than the question whether the standing committee or the commissioner shall be permitted to bring urgent business before a meeting without notice, shall be decided by a majority of votes of the councillors present and voting on that question, the presiding authority having a second or casting vote when there is an equality of votes ;
- (r) a declaration by the presiding authority that a proposition has been carried and an entry to that effect in the minute-book shall, unless a poll be demanded at the time of such declaration by not less than four councillors, be conclusive evidence of the fact, without proof of the number of votes given for or against the proposition ;
- (s) when a poll is taken, the vote of each councillor present and voting upon the proposition shall be taken by tellers appointed by the presiding authority and the names of the councillors voting respectively for or against the proposition shall be recorded in the minute-book :
- (t) the commissioner shall have the same right of being present at a meeting of the corporation and of taking part in the discussions thereat as a councillor, and with the consent of a majority of the councillors present, ascertained by a show of hands, without discussion, may at any time make a statement or explanation of facts, but he shall not be at liberty to vote upon, or to make any proposition at such meeting.

President of the Corporation.

37. (1) The corporation shall, at their first meeting in each official year, appoint one of their own number to be president until the first meeting of the corporation in the next following official year, unless the councillors in the meantime retire from office, and then until the day for retirement.

(2) Any councillor who ceases to be president shall be re-eligible.

(3) If any casual vacancy occurs in the office of president of the corporation, the corporation shall, as soon as they conveniently can after the occurrence of such vacancy, choose one of their number to fill such vacancy and every president so chosen shall continue in office so long only as the person in whose place he is appointed would have been entitled to continue if such vacancy had not occurred.

Committees.

38. The corporation may from time to time appoint out of their own body such and so many committees consisting of such number of persons, and may refer to such committees for inquiry and report or for opinion, such special subjects relating to the purposes of this Act as they shall think fit.

Appointment by the corporation and by Government of a Joint Schools' Committee for purposes of primary education.

39. (1) It shall be the duty of the corporation and of Government each to appoint four members of a Joint Schools' Committee of eight members, for the purpose of giving effect to the provisions as to primary education hereinafter enacted.

(2) ~~The first appointments to the said committee shall be made within one month from the date on which this Act comes into operation.~~ The members then or thereafter duly appointed may perform all the functions legally pertaining to the committee, notwithstanding any default, delay or defect in the appointment of any member. 207/95
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(3) ~~At the end of each of the first three years after this Act shall come into operation,~~ one of the members of the Joint Schools' Committee appointed by Government and one appointed by the corporation shall retire by ballot. Thereafter the two senior members shall retire at the end of each calendar year and two shall be appointed or re-appointed by Government or by the corporation, whereof each shall appoint to the place vacated by any member previously appointed by itself, whether such vacancy have arisen as aforesaid or by death or resignation of the member.

(4) The names of all persons appointed to be members of the said committee shall be published by the municipal secretary in the *Bombay Government Gazette*.

(5) The Joint Schools' Committee shall, by election from amongst its own members, appoint one member to be chairman for the current term of his office or for any shorter period. The chairman so appointed shall preside, and, in his absence, the senior member according to date of first appointment or, in case of equality of date, the member whose name appears first in the list published in the *Bombay Government Gazette*, shall preside at meetings of the committee. He shall have a vote and, in case of equal division, a casting vote.

(6) The corporation shall provide for the Joint Schools' Committee a competent secretary and such clerks and messengers as shall be necessary. It shall also supply the committee with accommodation, stationery and the other material requisites for the due discharge of its duties on the requisition of the chairman, signified by him, by any member of the committee, or by the secretary.

(7) The Joint Schools' Committee shall administer the school-fund hereinafter defined and prescribed and shall provide thereout for the accommodation and maintenance of primary schools which at any time vest wholly or partly in the corporation and for otherwise aiding primary education in accordance with by-laws duly made under section 461, and with rules made or approved by Government in this behalf.

(8) An order signed by the chairman of the said committee shall be sufficient warrant for the disbursement by any person holding the school-fund or any part thereof, of any sum thereout in accordance with such order.

(9) The Joint Schools' Committee shall appoint and remove masters, teachers and other persons employed in the primary schools maintained out of the school-fund, and shall direct and control the instruction given in such schools and the terms and conditions of such instruction, and annex to the aid given to other primary schools such terms as shall seem expedient, subject always to by-laws duly made under section 461 and to rules made or approved by Government in this behalf.

(10) The Joint Schools' Committee may, by a by-law duly made under section 461, be invested with the powers and duties of any authority constituted under this Act, in so far as shall be necessary or expedient in order to the fulfilment of the functions imposed on such committee as contemplated in this section and in section 61, clause (g), and to the extent to which such committee is invested as aforesaid, the powers and duties of the said authority shall be in abeyance, save as so vested and exercised accordingly.

40. The corporation may, for the purpose of giving effect to measures and arrangements in furtherance of secondary education or any branch of technical or other instruction, appoint or join in appointing a committee in the manner described in the last preceding section or as may be

determined by any by-law made under section 461, and such committee shall have in relation to the branch of education and the institutions for which it is appointed the like powers and duties as are herein assigned to the Joint Schools' Committee, save as the same may be varied by any by-law made under the said section.

41. The corporation, either singly or in concurrence with Government, may appoint a Hospital Committee with such constitution, powers and duties with respect to hospitals and institutions for the benefit of the aged, sick and infirm, vesting wholly or partly in the corporation and supported or aided out of its funds, as may be defined and provided by by-laws made under section 461 or by any agreement made with Government in this behalf.

(B) *The Standing Committee.*

42. The standing committee shall consist of twelve councillors, eight appointed by the corporation and four by Government.

43. (1) The corporation shall at their first meeting in the month of April, after general elections, appoint eight persons out of their own body to be members of the standing committee.

(2) Four other councillors shall be appointed by Government to be members of the standing committee within one week after such appointment by the corporation.

44. (1) The standing committee shall at their first meeting in each official year appoint one of their own number to be their chairman until the first meeting of the said committee in the next following official year.

(2) A member of the standing committee who ceases to be chairman shall be re-eligible.

(3) If any casual vacancy occurs in the office of chairman, the standing committee shall, as soon as they conveniently can after the occurrence of such vacancy, choose one of their number to fill such vacancy and every chairman so chosen shall continue in office so long only as the person in whose place he is appointed would have been entitled to continue if such vacancy had not occurred.

45. (1) One-half of the members of each standing committee appointed by the corporation and one-half of those appointed by Government, the selection of the said members being made by lot at such time

previous to the first day of March and in such manner as the chairman shall determine, shall retire from office at noon on the first day of April next following the date of their appointment.

(2) The remaining members of the standing committee shall retire from office at noon on the first day of April next following the first day of April aforesaid.

46. (1) The corporation shall at their ordinary meeting in the month of March appoint fresh members of the standing committee to fill the offices of those previously appointed by them who retire from time to time as aforesaid, and, within one week after any such appointment by the corporation, Government shall appoint fresh members to fill the offices of those previously appointed by them who retire as aforesaid.

(2) Any councillor who ceases to be a member of the standing committee shall be re-eligible.

47. In the event of non-acceptance of office by a councillor appointed to be a member of the standing committee or of the death, resignation or disqualification of a member of the said committee or of his becoming incapable of acting previous to the expiry of his term of office, the vacancy shall be filled up, as soon as it conveniently may be, by the appointment by the corporation or by Government, as the case may be, of a person thereto, who shall hold office so long only as the member in whose place he is appointed would have been entitled to hold it, if the vacancy had not occurred.

48. The standing committee in existence on the day for the retirement of councillors shall continue to hold office until such time as a new standing committee is appointed under section 43, notwithstanding that the members of the said committee or some of them may no longer be councillors.

49. The standing committee shall meet for the despatch of business in the chief municipal office and may, from time to time, make such regulations with respect to such meetings and with respect to the scrutiny of the municipal accounts, as they think fit, subject to the following conditions :—

(a) there shall be a meeting of the standing committee once a week, and at such other times as shall be found necessary ;

- (b) the first meeting of each standing committee shall be held on a day and at a time to be fixed by the commissioner, and if not held on that day shall be held on some subsequent day to be fixed by the commissioner; and every subsequent meeting of the standing committee shall be held on such day and at such time as the said committee from time to time determine;
- (c) the chairman of the standing committee shall, upon a written requisition signed by the commissioner, call a special meeting of the said committee within twenty-four hours for the transaction of any business which, in the opinion of the commissioner, cannot be delayed until the next ordinary meeting of the said committee;
- (d) no business shall be transacted at a meeting of the standing committee unless at least six members are present from the beginning to the end of such meeting;
- (e) every meeting of the standing committee shall be presided over by the chairman, if the chairman is present at the time appointed for holding the meeting, and, if the chairman is absent, by such one of the members present as may be chosen by the meeting to be chairman for the occasion;
- (f) every question shall be decided by a majority of votes of the members of the standing committee present and voting on that question, the presiding authority having a second or casting vote when there is an equality of votes;
- (g) subject to any by-laws in this behalf made under clause (t) of section 461, the standing committee may from time to time, by a specific resolution in this behalf, delegate any of their powers or duties to sub-committees consisting of such members of the said committee not less in number than three on each sub-committee, as they think fit; and any sub-committee so formed shall conform to any instructions that may from time to time be given to them by the standing committee and the said committee may at any time discontinue or alter the constitution of any sub-committee so formed;
- (h) a sub-committee may elect a chairman of their meetings, and if no such chairman is elected or if he is not present at the time appointed for holding any meeting, the members of the sub-committee present shall choose one of their number to be chairman of such meeting;
- (j) sub-committees may meet and adjourn as they think proper, but the chairman of the standing committee may, whenever he thinks fit and shall, upon the written request of not less than two members of a sub-committee, call a special meeting of such sub-committee;

- (k) questions at any meeting of a sub-committee shall be decided by a majority of votes of the members present and, in case of an equality of votes, the chairman of the meeting shall have a second or casting vote, but no business shall be transacted at any such meeting unless at least two-thirds of the members of the sub-committee are present from the beginning to the end thereof ;
- (l) a minute shall be kept by the municipal secretary of the names of the members present and of the proceedings at each meeting of the standing committee and at each sub-committee's meetings, in a book to be provided for this purpose, which shall be signed at, and by the presiding authority of, the next ensuing meeting ;
- (m) a member of the standing committee shall not vote or take part in the discussion before the said committee or before any sub-committee of any matter in which he has, directly or indirectly, by himself or by his partner, any share or interest such as is described in clauses (g) to (l), both inclusive, of section 16, or in which he is professionally interested on behalf of a client, principal or other person ;
- (n) the commissioner shall have the same right of being present at a meeting of the standing committee and of taking part in the discussions thereat as a member of the said committee, but he shall not be at liberty to vote upon, or make, any proposition at such meeting.

50. Every member of the standing committee shall be entitled to receive a fee of thirty rupees for each meeting of the said committee at which a quorum is present and business is transacted and which he attends from the beginning to the end thereof : provided that no more than one fee shall be paid to any member for his attendance at all such meetings in any one week.

Provisions regarding validity of proceedings.

51. No act or proceeding of the corporation or of the standing committee or of any committee or sub-committee appointed under this Act shall be questioned on account of any vacancy in their body.

Vacancy in corporation, &c., not to invalidate their proceedings.

52. No disqualification of, or defect in, the election or appointment of any person acting as a councillor or as the president or presiding authority of the corporation or as the chairman or as a member of the standing committee or of any committee or sub-committee appointed under this Act, shall be deemed to vitiate any act

Proceedings of corporation, &c., not vitiated by disqualification, &c., of members thereof.

or proceeding of the corporation or standing committee or of any such committee or sub-committee, as the case may be, in which such person has taken part, whenever the majority of persons, parties to such act or proceeding, were entitled to act.

53. Until the contrary is proved, every meeting of the corporation or standing committee or of a committee or sub-committee in respect of the proceedings whereof a minute has been made and signed in accordance with this Act, shall be deemed to have been duly convened and held, and all the members of the meeting shall be deemed to have been duly qualified; and where the proceedings are proceedings of a committee or sub-committee, such committee or sub-committee shall be deemed to have been duly constituted and to have had power to deal with the matters referred to in the minute.

(C) *The Municipal Commissioner.*

54. (1) The Municipal Commissioner for the city of Bombay shall be from time to time appointed by the Governor in Council for a renewable period of three years.

Appointment of the commissioner. (2) But he shall be forthwith removed by Government from office, if at a meeting of the corporation not less than forty-five councillors shall vote in favour of a proposition in this behalf; and he may be removed by the Governor in Council at any time, if it shall appear to the Governor in Council that he is incapable of performing the duties of his office, or has been guilty of any misconduct or neglect which renders his removal expedient.

Deputy Municipal Commissioner.

55. (1) Subject to confirmation by the Governor in Council, the corporation may at any time and from time to time appoint a person to be a Deputy Municipal Commissioner, if it shall appear to it expedient so to do.

Appointment of a deputy municipal commissioner. (2) Every person so appointed shall be subject to the same liabilities, restrictions and conditions to which the commissioner is subject.

56. (1) A deputy commissioner so appointed shall be subordinate to the commissioner and, subject to his orders, shall exercise such of the powers and perform such of the duties of the commissioner as the commissioner shall from time to time depute to him :

Functions of a deputy commissioner. (2) Provided that

(a) it shall not be lawful for a deputy commissioner to appear in the commissioner's stead at any meeting of the corporation

or standing committee or to exercise thereat any right or power of the commissioner;

- (b) the commissioner shall inform the corporation of the powers and duties which he from time to time deposes to a deputy commissioner.

(3) All acts and things performed and done by a deputy commissioner during his tenure of the said office and in virtue thereof, shall for all purposes be deemed to have been performed and done by the commissioner.

Remuneration of Commissioner and Deputy Commissioner.

57. (1) The commissioner shall receive such monthly salary, not exceeding rupees two thousand five hundred and not less than rupees two thousand, as Government shall from time to time determine, in return wherefor he shall, except as hereinafter provided, devote his whole time and attention to the duties of his office as prescribed in this Act or in any other enactment for the time being in force:

Salary of the commissioner to be fixed by Government.

(2) Provided that he may at any time:

(a) hold the office of a trustee of the port of Bombay;

(b) with the sanction of the corporation, serve on any committee constituted for the purpose of any local inquiry or for the furtherance of any object of local importance or interest.

(3) Provided also that, with the approval of the corporation, the monthly salary of a commissioner, who has held the appointment for a period of not less than three years, may be raised to a sum not exceeding three thousand rupees.

58. A deputy municipal commissioner shall receive such monthly salary not exceeding rupees fifteen hundred and not less than rupees twelve hundred as the corporation shall from time to time determine.

Remuneration of a deputy municipal commissioner.

Provisions for absence of Commissioner or Deputy Commissioner on leave.

Grant of leave of absence to the commissioner or deputy commissioner.

59. (1) Leave of absence may be granted from time to time:

(a) to the commissioner, by the Governor in Council, with the assent of the standing committee;

(b) to a deputy commissioner, by the corporation.

(2) The allowance to be paid to the commissioner or to a deputy commissioner whilst so absent on leave shall be of such amount, not exceeding respectively the amount of the salary of the commissioner

Allowance whilst absent on leave.

or deputy commissioner, as shall be fixed by the Governor in Council or the corporation, respectively : provided that if the commissioner or deputy commissioner is a Government officer, the amount of such allowance shall be regulated by the rules at the time in force relating to the leave allowances of officers of his class.

(3) During any absence of the commissioner or of a deputy commissioner the Governor in Council or the corporation may appoint a person to act as commissioner or as deputy commissioner, as the case may be. Every person so appointed shall exercise the powers and perform the duties conferred and imposed by this Act or by any other enactment at the time in force on the person for whom he is appointed to act, and shall be subject to the same liabilities, restrictions and conditions to which the said person is liable, and shall receive such monthly salary, within the limits prescribed in sections 57 and 58 for a commissioner and a deputy commissioner, as Government or the corporation, respectively, shall determine.

Disqualifications of the Commissioner and Deputy Commissioner.

60. (1) No person shall be qualified to be appointed or to be commissioner or a deputy commissioner who has, directly or indirectly, by himself or his partner, any share or interest in any contract with, by or on behalf of the corporation or in any employment with, by or on behalf of the corporation other than as commissioner or deputy commissioner, as the case may be.

(2) Any commissioner or deputy commissioner who shall acquire, directly or indirectly, by himself or his partner, any share or interest in any such contract or employment as aforesaid, shall cease to be commissioner or a deputy commissioner, as the case may be, and his office shall become vacant.

(3) Nothing in this section shall apply to any such share or interest in any contract or employment with, by or on behalf of the corporation as, under clauses (h) and (k) of section 16, it is permissible for a councillor to have without his being thereby disqualified for being a councillor.

CHAPTER III.

DUTIES AND POWERS OF THE MUNICIPAL AUTHORITIES.

Obligatory and Discretionary Duties of the Corporation.

61. It shall be incumbent on the corporation to make adequate provision, by any means or measures which it is lawfully competent to them to use or to take, for each of the following matters, namely :—

Matters to be provided for by the corporation.

- (a) the construction, maintenance and cleansing of drains and drainage-works, and of public latrines, urinals and similar conveniences ;
- (b) the construction and maintenance of works and means for providing a supply of water for public and private purposes ;
- (c) scavenging and the removal and disposal of excrementitious and other filthy matter, and of all ashes, refuse and rubbish ;
- (d) the reclamation of unhealthy localities, the removal of noxious vegetation and generally the abatement of all nuisances ;
- (e) the regulation of places for the disposal of the dead and the provision of new places for the said purpose ;
- (f) the registration of births and deaths ;
- (g) measures for preventing and checking the spread of dangerous diseases ;
- (h) the construction and maintenance of public markets and slaughter-houses and the regulation of all markets and slaughter-houses ;
- (j) the regulation of offensive and dangerous trades ;
- (k) the entertainment of a fire-brigade and the protection of life and property in the case of fire ;
- (l) the securing or removal of dangerous buildings and places ;
- (m) the construction, maintenance, alteration and improvement of public streets, bridges, culverts, causeways and the like ;
- (n) the lighting, watering and cleansing of public streets ;
- (o) the removal of obstructions and projections in or upon streets, bridges and other public places ;
- (p) the naming of streets and the numbering of premises ;
- (q) maintaining, aiding and suitably accommodating schools for primary education ;
- (r) the maintenance of a municipal office and of all public monuments and other property vesting in the corporation.

Share of the expenses of the police of the city to be paid by the corporation.

62. The corporation shall also provide and pay to Government :

- (a) such proportion of the annual expenses of the police of the city as Government shall from time to time determine ; and
- (b) the necessary contingent expenses, as determined from time to time by Government, incurred by the police commissioner in granting licenses under Bombay Act VI. of 1863 (*an Act for the regulation of public conveyances in the town, suburbs and harbour of Bombay*.) to public conveyances in the city.

Matters which may be provided for by the corporation at their discretion.

63. The corporation may, in their discretion, provide from time to time, either wholly or partly, for all or any of the following matters, namely :—

- (a) public vaccination ;
- (b) educational objects other than those set forth in clause (g) of section 61 ;
- (c) constructing, maintaining or aiding libraries, museums and art galleries ;
- (d) constructing or maintaining public parks and gardens and botanical and zoological collections ;
- (e) planting and maintaining trees on road-sides and elsewhere ;
- (f) surveys of buildings or lands ;
- (g) registration of marriages ;
- (h) taking of a census ;
- (j) preparation and presentation of addresses to persons of distinction ;
- (k) any measure not hereinbefore specifically named, likely to promote public safety, health, convenience or instruction.

And, with the previous sanction of Government, the corporation may make :

- (l) such contribution as they think fit towards any public ceremony or entertainment in the city.

Respective Functions of the several Municipal Authorities.

64. (1) The respective functions of the several municipal authorities, and of any committee appointed under section 39, 40 or 41, shall be such as are specifically prescribed in or under this Act.

Functions of the several municipal authorities.

Municipal government of the city vests in the corporation.

(2) Except as in this Act otherwise expressly provided, the municipal government of the city vests in the corporation.

(3) Subject, whenever it is in this Act expressly so directed, to the approval or sanction of the corporation or the standing committee and subject also to all other restrictions, limitations and conditions imposed by this Act, the entire executive power for the purpose of carrying out the provisions of this Act vests in the commissioner, who shall also :

Special functions of the commissioner.

- (a) perform all the duties and exercise all the powers specifically imposed or conferred upon him by this Act ;

- (b) prescribe the duties of, and exercise supervision and control over the acts and proceedings of, all municipal officers and servants, other than the municipal secretary and the municipal officers and servants immediately subordinate to him, and, subject to the regulations at the time being in force under section 81, dispose of all questions relating to the service of the said officers and servants and their pay, privileges and allowances ;
- (c) on the occurrence or the threatened occurrence of any sudden accident or unforeseen event, involving or likely to involve extensive damage to any property of the corporation or danger to human life, take such immediate action as the emergency shall appear to him to justify or to require, reporting forthwith to the standing committee and to the corporation, when he has done so, the action he has taken and his reasons for taking the same and the amount of cost, if any, incurred or likely to be incurred, in consequence of such action, which is not covered by a current budget-grant, within the meaning of that expression as defined in section 130.

65. The corporation may at any time call for any extract from any proceedings of the standing committee or of

Corporation may call for extracts from proceedings, &c., from the standing committee, &c.

any committee or sub-committee constituted under this Act and for any return, statement, account or report concerning or connected with any matter with which the standing committee or any such committee or sub-committee is empowered by or under this Act to deal ; and every such requisition shall be complied with by the standing committee or other committee or sub-committee, as the case may be, without unreasonable delay.

Corporation may require the commissioner to produce documents and furnish returns and reports, &c.

66. (1) The corporation may at any time require the commissioner :

- (a) to produce any record, correspondence, plan or other document which is in his possession or under his control as commissioner, or which is recorded or filed in his office or in the office of any municipal officer or servant subordinate to him ;
- (b) to furnish any return, plan, estimate, statement, account or statistics concerning or connected with any matter appertaining to the administration of this Act or the municipal government of the city :
- (c) to furnish a report by himself, or to obtain from any head of a department subordinate to him and furnish, with his own remarks thereon, a report, upon any subject concerning or connected with the administration of this Act or the municipal government of the city.

(2) Except as is hereinafter provided, every such requisition shall be complied with by the commissioner without unreasonable delay: and it shall be incumbent on every municipal officer and servant to obey any order made by the commissioner in pursuance of any such requisition:

(3) Provided that if, on such a requisition as aforesaid being made, the commissioner shall declare that immediate compliance therewith would be prejudicial to the interests of the corporation or of the public, it shall be lawful for him to defer such compliance until a time not later than the second ordinary meeting of the corporation after he shall have declared as aforesaid. If at such meeting, or any meeting subsequent thereto, the corporation shall repeat the requisition, and it shall then still appear to the commissioner inexpedient to comply therewith, he shall make a declaration to that effect, whereon it shall be lawful for the corporation to elect one councillor who with the president of the corporation and the chairman of the standing committee (or if the president of the corporation is also chairman of the standing committee, with the said president and one member of their own body elected by the standing committee) shall form a committee who shall engage to keep secret, save as hereinafter provided, the existence and purport of such documents and matters as may be disclosed to them; and to the said committee the commissioner shall be bound to make known and to disclose all writings and matters within his knowledge, under his control, or available to him, and embraced within the requisition, and the said committee having taken cognizance of the information, writings and matters so laid before them shall determine, by a majority in case of difference, whether or not the whole or any part and which part, if any, of such matters ought to be disclosed to the corporation or kept secret for a defined time, which decision shall be conclusive and shall be reported to the corporation at the next ordinary meeting thereof, where also the commissioner shall be prepared to produce documents and to make any report or statement requisite to give effect to the decision of the committee when called on to do so by the corporation.

(4) The heads of departments subordinate to the commissioner are the executive engineer, the executive health officer, the assessor and collector, and the chief accountant.

67. The exercise by any municipal authority of any power conferred or the performance of any duty imposed by or under this Act, which will involve expenditure, shall, except in any case specified in sub-section (2) of section 115, be subject to the following

Exercise of powers to be subject to sanction by corporation of the necessary expenditure.

provisoes, namely:—

- (a) that such expenditure, so far as it is to be incurred in the official year in which such power is exercised or duty performed, shall be provided for under a current budget-grant, within the meaning of that expression as defined in section 130; and

- (b) that if the exercise of such power or the performance of such duty involves or is likely to involve expenditure for any period or at any time after the close of the said official year, liability for such expenditure shall not be incurred without the sanction of the corporation.

68. (1) Any of the powers, duties or functions conferred or imposed upon or vested in the commissioner by any of

Municipal officers may be empowered to exercise certain of the powers, &c., of the commissioner.

the sections, sub-sections or clauses mentioned in sub-section (2), may be exercised, performed or discharged, under the commissioner's control and subject to his revision and to such conditions and limitations, if any, as he shall think fit to prescribe, by any municipal officer whom the commissioner generally or specially empowers in writing in this behalf; and in each of the said sections, sub-sections and clauses, the word "commissioner" shall, to the extent to which any municipal officer is so empowered, be deemed to include such officer.

(2) The sections, sub-sections and clauses of this Act referred to in sub-section (1) are the following, (namely) :

Section 82.

- „ 83.
- „ 84.
- „ 85, sub-s. (1).
- „ 112.
- „ 113, sub-s. (3).
- „ 142, sub-s. (2).
- „ 149.
- „ 152, sub-s. (1).
- „ 153, sub-s. (1).
- „ 155, sub-ss. (1) & (3).
- „ 160.
- „ 162.
- „ 163, sub-s. (1).
- „ 164.
- „ 165, sub-ss. (1) & (2).
- „ 174.
- „ 175.
- „ 176.
- „ 177.
- „ 187.
- „ 188.

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Section 189.

- „ 200.
- „ 201, sub-s. (2).
- „ 202, sub-s. (1).
- „ 209, sub-s. (1).
- „ 210, sub-s. (1).
- „ 214, sub-ss. (2) & (3).
- „ 222, sub-ss. (1) & (2).
- „ 226, sub-s. (2).
- „ 228.
- „ 229.
- „ 234.
- „ 240.
- „ 243, sub-s. (2).
- „ 244, sub-s. (1).
- „ 248.
- „ 249.
- „ 250, sub-s. (2).
- „ 251.
- „ 253.
- „ 254.
- „ 255.

Section 257.

- „ 258, cls. (a), (b) & (c).
- „ 259.
- „ 263, sub-s. (1).
- „ 265.
- „ 266.
- „ 272.
- „ 273.
- „ 276.
- „ 278.
- „ 279, sub-s. (1).
- „ 287.
- „ 298, sub-ss. (1) & (2).
- „ 300, sub-s. (1).
- „ 311.
- „ 314.
- „ 317.
- „ 319.
- „ 321, sub-s. (2).
- „ 322.
- „ 324.
- „ 325.
- „ 326, sub-ss. (2) & (3).
- „ 329.
- „ 333, sub-s. (4).
- „ 334, sub-s. (1).
- „ 337, sub-s. (1).
- „ 338.
- „ 339.
- „ 340.
- „ 342.
- „ 343.
- „ 345.
- „ 346, sub-s. (1).

Section 347, cl. (a).

- „ 348, cls. (a), (b) & (c).
- „ 349.
- „ 350.
- „ 353.
- „ 354.
- „ 355.
- „ 368.
- „ 374.
- „ 375.
- „ 377.
- „ 380.
- „ 383.
- „ 384, cl. (a).
- „ 394.
- „ 396, sub-s. (1).
- „ 403, cl. (c).
- „ 409.
- „ 410, sub-s. (1).
- „ 412, sub-ss. (1) & (2).
- „ 413, sub-s. (1).
- „ 415.
- „ 416.
- „ 422.
- „ 424, sub-s. (1).
- „ 425, sub-s. (1).
- „ 427, sub-s. (3).
- „ 455.
- „ 479, sub-s. (5).
- „ 488.
- „ 489.
- „ 492, cl. (a).
- „ 517, cl. (a).

Contracts.

Power to the commissioner to execute contracts on behalf of the corporation.

69. With respect to the making of contracts under or for any purpose of this Act, the following provisions shall have effect; namely :

- (a) Every such contract shall be made on behalf of the corporation by the commissioner ;
- (b) No such contract for any purpose which, in accordance with any provision of this Act, the commissioner may not carry out without the approval or sanction of some other municipal authority, shall be made by him until or unless such approval or sanction has first of all been duly given ;
- (c) No contract, other than an agreement for the acquisition of immoveable property, which will involve an expenditure exceeding five thousand rupees shall be made by the commissioner, unless the same is previously approved by the standing committee ;
- (d) Every contract made by the commissioner involving an expenditure exceeding five hundred and not exceeding five thousand rupees shall be reported by him, within fifteen days after the same has been made, to the standing committee ;
- (e) The foregoing provisions of this section shall apply, respectively, to every contract which the commissioner shall have occasion to make in the execution of this Act ; and the same provisions of this section which apply to an original contract shall be deemed to apply also to any variation or discharge of such contract.

70. (1) Every contract entered into by the commissioner on behalf of the corporation shall be entered into in such manner and form as would bind the commissioner if such contract were on his own behalf, and may in the like manner and form be varied or discharged : Provided that :

- (a) where any such contract, if entered into by the commissioner, would require to be under seal, the same shall be sealed with the common seal of the corporation ; and
- (b) every contract for the execution of any work or the supply of any materials or goods which will involve an expenditure exceeding five hundred rupees shall be in writing and shall be sealed with the common seal of the corporation and shall specify the work to be done or the materials or goods to be supplied, as the case may be, the price to be paid for such work, materials, or goods, and, in the case of a contract for work, the time or times within which the same or specified portions thereof shall be completed.

(2) The common seal of the corporation, which shall remain in the custody of the municipal secretary, shall not be affixed to any contract, or other instrument, except in the presence of two members of the standing

committee, who shall attach their signatures to the contract or instrument in token that the same was sealed in their presence. The signatures of the said members shall be distinct from the signatures of any witnesses to the execution of any such contract or instrument.

Contract not binding on the corporation unless executed as prescribed in section 70.

71. No contract not executed as in the last preceding section provided shall be binding on the corporation.

72. (1) Except as is hereinafter otherwise provided, the commissioner

Tenders to be invited for contracts involving expenditure exceeding Rs. 3,000.

shall, at least seven days before entering into any contract for the execution of any work or the supply of any materials or goods which will involve an expenditure exceeding three thousand rupees, give notice by advertisement in the local newspapers, inviting tenders for such contract.

(2) The commissioner shall not be bound to accept any tender which may be made in pursuance of such notice, but may accept, subject to the provision of clause (c) of section 69, any of the tenders so made which appears to him, upon a view of all the circumstances, to be the most advantageous :

(3) Provided that the standing committee may authorize the commissioner, for reasons which shall be recorded in their proceedings, to enter into a contract without inviting tenders as herein provided or without accepting any tender which he may receive after having invited them.

73. The commissioner shall require sufficient security for the due per-

Security when to be taken for performance of contract.

formance of every contract into which he enters under the last preceding section, and may, in his discretion, require security for the due performance of any other contract into which he enters under this Act.

CHAPTER IV.

MUNICIPAL OFFICERS AND SERVANTS.

Executive Engineer and Executive Health Officer.

Appointment of executive engineer and executive health officer.

74. (1) The corporation shall appoint fit persons to be municipal executive engineer and municipal executive health officer.

(2) Each of the said officers shall :

(a) be appointed for a renewable term of five years ;

(b) devote his whole time and attention to the duties of his office ;

(c) receive such monthly salary, not exceeding rupees ~~fifteen hundred~~ ^{two thousand} and not less than rupees twelve hundred, as the corporation shall from time to time determine ;

(d) be removeable at any time from office for misconduct or for neglect of, or incapacity for, the duties of the office, on the votes of not less than two-thirds of the members present at a meeting of the corporation :

(3) Provided that :

(e) no person shall be appointed to be executive health officer who is not a legally qualified medical practitioner ;

(f) the corporation may, in their discretion, appoint a person probationally for a limited period only, to either of the said offices, previous to appointing him for the full term of five years ;

(g) every appointment made under this section shall be subject to confirmation by the Governor in Council.

75. (1) On the occurrence of a vacancy in the office of executive engineer or of executive health officer, an appointment shall be made thereto by the corporation within four months from the date on which the vacancy occurred or in the event of any appointment so made by them not being confirmed by Government, within thirty days from the date of the receipt by the corporation of the order of Government.

Time within which vacancy in office of executive engineer or executive health officer must be filled up.

(2) In default of an appointment being made by the corporation as aforesaid, the Governor in Council may appoint a person to fill the vacancy, and such appointment shall for all purposes be deemed to have been made by the corporation.

(3) Pending the settlement of an appointment under sub-section (1) or (2), the corporation may appoint a person to fill the vacancy temporarily and may direct that the person so appointed shall receive such monthly salary not exceeding ~~supers fifteen hundred~~ as it shall think fit. A person so appointed to be temporary executive health officer need not be a legally qualified medical practitioner.

1 & 2 mod.
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by Bom. II/100
a.2.

76. The executive health officer appointed under this Act shall be the consulting officer of health for the purposes of Bombay Act VI. of 1867 (*an Act for the better sanitary regulation of the city of Bombay*).

Executive health officer to be the consulting officer of health under Bombay Act VI. of 1867.

Municipal Secretary.

Appointment of municipal secretary.

77. (1) The standing committee shall from time to time appoint a fit person to be municipal secretary.

(2) The municipal secretary shall be secretary of the corporation and also of the standing committee, and shall :

- (a) perform such duties as he is directed by this Act to perform and such other duties in and with regard to the corporation and the standing committee as shall be required of him by those bodies respectively ;
- (b) have the custody of all papers and documents connected with the proceedings of :
 - (i) the corporation and any committee appointed by the corporation ;
 - (ii) the standing committee and any sub-committee thereof ;
- (c) devote his whole time and attention to the duties of his office ;
- (d) receive a monthly salary of rupees seven hundred which, with the previous sanction of the corporation, may be increased to a sum not exceeding rupees one thousand ;
- (e) be removeable at any time from office for misconduct or for neglect of, or incapacity for, the duties of the office by the standing committee, with the approval of the corporation.

78. (1) The standing committee may from time to time :

- (a) appoint such clerks and servants to be immediately subordinate to the municipal secretary as they think fit ;
- (b) determine the nature and amount of the salaries, fees and allowances to be paid to the said servants and clerks respectively ;
- (c) prescribe or delegate to the municipal secretary the power of prescribing the duties of the said clerks and servants.

(2) The municipal secretary, subject to the orders of the standing committee, shall exercise supervision and control over the acts and proceedings of the said clerks and servants, and the standing committee, subject to the regulations at the time being in force under section 81, shall dispose of all questions relating to the service of the said clerks and servants and their pay, privileges and allowances.

Control, &c., of the said clerks and servants.

Other Officers and Servants.

79. (1) The commissioner shall, ~~as soon as may be after this Act comes into force and afterwards~~ ^{from time to time, 27/9/10}

Schedule of other officers and servants to be prepared by the commissioner and sanctioned by the standing committee.

prepare and bring before the standing committee a schedule setting forth the designations and grades of the other officers and servants who should, in his opinion, be maintained, and the amount and nature of the salaries, fees and allowances which, he proposes, should be paid to each.

(2) The standing committee shall sanction such schedule either as it stands or subject to such modifications as they deem expedient: provided that no new office of which the aggregate emoluments exceed rupees two hundred per month shall be created without the sanction of the corporation.

80. No permanent officer or servant shall be entertained in any department of the municipal administration unless he has been appointed under section 74, 77, or 78, or his office and emoluments are included in the schedule at the time in force prepared and sanctioned under the last preceding section.

Restriction of employment of permanent officers and servants.

Leave of absence, acting appointments, &c.

Standing committee to frame regulations for grant of leave, &c.

81. The standing committee shall from time to time frame regulations, in consonance with any resolution that may be passed by the corporation:

- (a) fixing the amount and the nature of the security to be furnished by any municipal officer or servant from whom it may be deemed expedient to require security;
- (b) regulating the grant of leave to municipal officers and servants;
- (c) authorizing the payment of allowances to the said officers and servants, or to certain of them, whilst absent on leave;
- (d) determining the remuneration to be paid to the persons appointed to act for any of the said officers or servants during their absence on leave;
- (e) regulating the period of service of all the said officers and servants;
- (f) determining the conditions under which the said officers and servants, or any of them, shall on retirement or discharge receive pensions, gratuities or compassionate allowances, and under which the widows, or other relations dependent on any of the said officers and servants, shall, after their death, receive compassionate allowances, and the amounts of such pensions, gratuities or compassionate allowances;
- (g) authorizing the payment of contributions, at certain prescribed rates and subject to certain prescribed conditions, to any pension or provident fund which may, with the approval of the standing committee, be established by the said officers and servants.

(2) No regulation made by the standing committee under this section shall have force or validity, unless and until it has been confirmed by the corporation, nor, if it is made under clause (f), unless and until it has been confirmed by Government.

Such regulations to be subject to confirmation by the corporation and, if made under clause (f), by Government.

82. **Power of appointment in whom to vest.** Except as is hereinbefore otherwise provided, the power of appointing municipal officers and servants shall, subject to the schedule at the time being in force prepared and sanctioned under section 79, vest in the commissioner.

83. (1) **Power of suspending, punishing and dismissing in whom to vest.** Every municipal officer and servant may be fined, reduced, suspended or dismissed for any breach of departmental rules or discipline or for carelessness, unfitness, neglect of duty or other misconduct, by the authority by whom such officer or servant is appointed :

(2) Provided that :

- (a) no officer whose monthly emoluments exceed rupees three hundred shall be dismissed by the commissioner, without the approval of the standing committee ;
- (b) any officer appointed by the corporation may be suspended by the standing committee pending an order of the corporation, such suspension and the reason therefor being forthwith reported to the corporation.

84. (1) **Leave of absence by whom to be granted.** Leave of absence may be granted by the commissioner, subject to the regulations at the time being in force under section 81, to any municipal officer or servant the power of appointing whom is vested in him and, for a period not exceeding one month, to any other municipal officer, other than an officer immediately subordinate to the municipal secretary.

(2) Leave of absence may be granted, subject as aforesaid, by the standing committee :

- (a) to any clerk or servant appointed under section 78 ;
- (b) for a period exceeding one month, to any other municipal officer, the power of appointing whom is not vested in the commissioner.

85. (1) **Acting appointments.** The appointment of a person to act in the place of an officer absent on leave may be made, when necessary, and subject to the regulations aforesaid, by the same authority who grants the leave of absence :

(2) Provided that :

- (a) when the executive engineer or the executive health officer is granted leave of absence for a period exceeding one month, the appointment of a person to act for him shall be made by the corporation ;
- (b) any appointment of a person to act as executive engineer or as executive health officer may be disallowed by the Governor in Council, and from the time of being so disallowed shall be null and void ;

- (c) no person shall be appointed to act for the executive health officer for a period exceeding three months, unless such person is a legally qualified medical practitioner, but a person appointed to act for the said officer for a period not exceeding three months need not be a legally qualified medical practitioner.

(3) A person appointed under this section to act for any officer or servant shall, while so acting, perform the same duties and exercise the same powers and be subject to the same liabilities, restrictions and conditions which the permanent incumbent of the office or place is bound to perform or may exercise or to which the said incumbent is liable.

Disqualifications of Municipal Officers and Servants.

86. (1) Any person who has, directly or indirectly, by himself or his partner, any share or interest in any contract with, by, or on behalf of the corporation, or in any employment with, by, or on behalf of the corporation, other than as a municipal officer or servant, shall be disqualified for being a municipal officer or servant.

(2) Any municipal officer or servant who shall acquire, directly or indirectly, by himself or his partner, any share or interest in any such contract or employment as aforesaid, shall cease to be a municipal officer or servant and his office shall become vacant.

(3) Nothing in this section shall apply to any such share or interest in any contract or employment with, by, or on behalf of the corporation as under clauses (h) and (k) of section 16 it is permissible for a councillor to have, without his being thereby disqualified for being a councillor.

CHAPTER V.

MUNICIPAL PROPERTY AND LIABILITIES.

Acquisition of Property.

87. The corporation shall, for the purposes of this Act, have power to acquire and hold moveable and immoveable property, whether within or without the limits of the city.

88. All such immoveable and other property as is held by, or in trust for, or has been granted by Government to the corporation under, or in pursuance, or for the purposes of any Act hereby repealed, shall, upon and after the date when this Act comes into force, vest in the corporation in trust for the purposes of this Act, but subject to all charges and liabilities affecting the same.

89. (1) On the expiry of the term of ninety-nine years, commencing on the first day of July, 1863, for which, in accordance with section 64 of the Bombay Municipal Acts of 1872 and 1878, the Vehár lake and the property appurtenant thereto, hereinafter referred to as "the Vehár waterworks," were vested in the corporation, the Governor in Council may direct that the said Vehár waterworks shall vest, and the same shall in such case vest, in the corporation, on the conditions hereinafter provided and, for the purposes of this Act, for such further period not exceeding ninety-nine years as shall seem expedient :

(2) Provided that on the expiry of the said first term of ninety-nine years, or of any further term for which the Governor in Council may have directed that the said Vehár waterworks shall vest in the corporation, all rights and every power conveyed to the corporation shall forthwith cease and determine, and the said Vehár waterworks shall revert to and become vested in Her Majesty as the same were vested in Her Majesty before the first day of July, 1863.

90. (1) Whenever it is provided by this Act that the commissioner may acquire, or whenever it is necessary or expedient for any purpose of this Act that the commissioner shall acquire, any immoveable property, such property may be acquired by the commissioner on behalf of the corporation by agreement on such terms and at such rates or prices or at rates or prices not exceeding such maxima as shall be approved by the standing committee, either generally for any class of cases or specially in any particular case.

(2) And whenever, under any provision of this Act, the commissioner is authorized to agree to pay the whole or any portion of the expenses of acquiring any immoveable property, he shall do so on such terms and at such rates or prices or at rates or prices not exceeding such maxima as shall be approved by the standing committee as aforesaid :

(3) Provided that no agreement for the acquisition of any immoveable property under sub-section (1) or (2) shall be valid, if the price to be paid for such property exceeds one thousand rupees, unless and until such agreement has been approved by the corporation.

91. (1) Whenever the commissioner is unable to acquire any immoveable property under the last preceding section by agreement, Government may, in their discretion, upon the application of the commissioner, made with the approval of the stand-

Procedure when immoveable property cannot be acquired by agreement.

S. 89 (2).—In this sub-section the words "Her Majesty" are printed in place of the words "the Secretary of State for India in Council," being substituted therefor by S. 5 of Bom. Act. IV. of 1868.

ing committee, order proceedings to be taken for acquiring the same on behalf of the corporation, as if such property were land needed for a public purpose within the meaning of the Land Acquisition Act, 1870.

(2) The amount of compensation awarded and all other charges incurred in the acquisition of any such property shall, subject to all other provisions of this Act, be forthwith paid by the commissioner and thereupon the said property shall vest in the corporation.

Disposal of Property.

Provisions governing the disposal of municipal property.

92. With respect to the disposal of property belonging to the corporation the following provisions shall have effect, namely :

- (a) the commissioner may, in his discretion, dispose of, by sale or otherwise, any moveable property belonging to the corporation not exceeding in value, in each instance, five hundred rupees, or grant a lease of any immoveable property belonging to the corporation including any right of fishing or of gathering and taking fruit and the like, for any period not exceeding twelve months at a time : provided that every such lease granted by the commissioner shall be reported by him, within fifteen days after the same has been granted, to the standing committee ;
- (b) with the sanction of the standing committee, the commissioner may dispose of, by sale or otherwise, any moveable property belonging to the corporation, of which the value does not exceed five thousand rupees, or grant a lease of any immoveable property belonging to the corporation, including any such right as aforesaid, for any period not exceeding three years at a time ;
- (c) with the sanction of the corporation, the commissioner may lease, sell or otherwise convey any property, moveable or immoveable, belonging to the corporation ;
- (d) the sanction of the standing committee or of the corporation under clause (b) or clause (c) may be given either generally for any class of cases or specially in any particular case ;
- (e) the aforesaid provisions of this section shall apply, respectively, to every disposal of property belonging to the corporation made under or for any purpose of this Act.

Liabilities.

93. So much of the following moneys as are still repayable on the day when this Act comes into force, shall be repaid, together with the interest due thereupon, by the corporation, namely :

Debts payable by the corporation.

(a) to the Secretary of State for India in Council—

(i) the balance of the debt due on account of the
Vehár waterworks debt; Vehár waterworks in ^{accord-} ~~accord-~~ ^{ance with the terms heretofore} ~~prescribed~~ in section 140 of the Bombay Municipal Acts
of 1872 and 1878, with simple interest thereon at the
rate of four per centum per annum ;

(ii) the balance of the consolidated loan, as the
The consolidated loan; same was defined in section
3, clause (3) of the Bom-
bay Municipality's Consolidated Loan Act, 1880, due on
various accounts, with interest thereon at the rate of
four-and-a-half per centum per annum :

(b) to municipal security-holders—

(iii) the house-rate loan and the two market loans
House-rate and market loans raised in 1867 and 1868
of 1867-68; under the provisions of
the Bombay Municipal
Act, 1865, with interest thereon at the rate of six per
centum per annum ;

(iv) the drainage loan of 1878 raised under the
New drainage loan of 1878; provisions of the Public
Works' Loan Act, 1871,
with interest thereon at the rate of five per centum
per annum ;

(v) the sanitary works' loans of 1885, 1886 and
Sanitary works' loans of 1885, 1888 contracted under the
1886 and 1888; provisions of the Local
Authorities Loan Act,
1879, with interest thereon at the rate of five per centum
per annum ;

(vi) the portion of the Tánsa water-works' loan
Tánsa waterworks' loan; contracted under the Act
last aforesaid previous to
the coming into force of this Act ;

(vii) the portion of the drainage and water-works'
Drainage and waterworks' loan loan of 1888 contracted
of 1888. under the said Act pre-
vious to the coming into
force of this Act.

Repayment of moneys due to the Secretary of State in Council.

94. In order to secure the repayment of the Vehár waterworks' debt,
Vehár waterworks' debt repay- the commissioner shall, on the first day of every
able in monthly instalments. month, until the whole of the said debt, to-

gether with the interest due thereon, shall be liquidated, pay to Government a sum of rupees ^{fourteen} ~~fourteen~~ thousand and ^{eight} ~~one~~ hundred and ^{forty-eight} ~~eight~~.

95. (1) The whole of the consolidated loan, together with the interest due thereon, shall be repaid within thirty years from the first day of January, 1881.

Period of repayment of consolidated loan.

(2) For better securing the repayment of the said loan, the commissioner

Mode of repayment.

shall pay half-yearly to Government, on every first day of January and every first day of July, until the whole of the said loan, together with the interest due thereon, shall be liquidated, a sum of one lākh seventy-eight thousand three hundred and twenty-six rupees two annas and five pies.

96. (1) Every payment to be made by the commissioner under either

Payments to whom to be made.

of the two last preceding sections shall be made to the officer, ~~or into the bank~~, for the time being appointed to receive Government dues, ~~or into the Bank of Bombay~~.

(2) Notice of every such payment having been made shall be forthwith

Notice of payments to be published.

published by the commissioner in the *Bombay Government Gazette*.

97. If the commissioner fails to make any of the said payments at the

In case of non-payment, report to be made to the Chief Secretary to Government.

prescribed time, the Accountant General shall, within seven days after the day on which such payment ought to have been made, report the fact to the Chief Secretary to Government or

other officer acting in that capacity.

98. (1) It shall be lawful for the said Chief Secretary, or other officer

Arrears may be recovered by detention of moneys due to the corporation.

acting in that capacity, when any of the said payments is in arrear, to direct any Government officer, not being a municipal authority or officer, to detain, to the extent of any pay-

ment or payments then in arrear, any moneys due or that may become due to the corporation, which he may then or thereafter have in his custody or control.

(2) Such officer shall detain the moneys which he is so directed to detain and pay the same, as they become due to the corporation, to the officer, or into the bank, for the time being appointed to receive Government dues at Bombay.

(3) The moneys so paid shall be applied in or towards satisfaction of the amount for the time being due in respect of the Vehār waterworks' debt or of the consolidated loan, in preference to and with priority over all other incumbrances on and claims to such moneys.

99. (1) If the amount in arrear cannot be recovered in the manner Or by attachment of the municipal fund, &c. provided in the last preceding section, the Governor in Council may attach the municipal fund, or any tax leviable by the corporation.

(2) After such attachment, no person, except an officer appointed by the Governor in Council, shall in any way deal with the attached fund or tax ; but such officer may do all acts in respect thereof which the corporation or any municipal authority might have done, if such attachment had not taken place, and may apply the proceeds in satisfaction of the amount in arrear and of all expenses involved by the attachment and subsequent proceedings :

(3) Provided that no such attachment shall defeat or prejudice any debt for which the fund or tax attached was previously pledged in accordance with law ; but all such prior charges shall be paid out of the proceeds of the fund or tax attached before any part of the proceeds is applied to the satisfaction of a liability for the Vehár waterworks' debt or the consolidated loan.

100. If the commissioner fails to make any monthly payment, in accordance with section 94, on account of the Vehár waterworks' debt and after notice in writing, signed by one of the secretaries to Government, requiring payment of the same has been served upon him and forwarded to the president of the corporation and published for a period of not less than two months in the *Bombay Government Gazette*, shall still fail to make such payment,

Reversion of Vehár waterworks to Government in case of default in payment of any instalment of the debt due on their account.

the said Vehár waterworks shall, notwithstanding anything contained in section 88, cease to vest in the corporation and shall forthwith become vested in Her Majesty in trust for the purposes for which the same were previously vested in the corporation.

101. Nothing in the four last preceding sections shall affect the rights or remedies which the Secretary of State for India in Council has or shall have independently of this Act for the recovery of the moneys aforesaid.

Other rights and remedies of the Secretary of State for India in Council not to be affected.

102. The annual sum of the monthly instalments paid by the commissioner under section 94 and all recoveries made under any of the foregoing sections on account of the Vehár waterworks' debt shall be appropriated as follows, namely :

Method of appropriating payments on account of the Vehár waterworks.

first, to the payment of the interest accrued on account of the principal sum of rupees thirty-seven lákhs thirty thousand and fifty-three due on account of the said debt on the first day of July, 1863 ;

S. 100.—In this section the words " Her Majesty " are printed in place of the words " the Secretary of State for India in Council," being substituted therefor by S. 5 of Bom. Act IV. of 1888.

secondly, to the payment of interest on all sums advanced by Government in connection with the said works since the first day of July, 1863;

thirdly, to the payment of all sums subsequently advanced as aforesaid; and

lastly, to the liquidation of the said principal sum of rupees thirty-seven lakhs thirty thousand and fifty-three.

103. Every payment made by the commissioner under section 95 and all recoveries made under any of the foregoing sections on account of the consolidated loan, shall be appropriated first to the payment of the interest due at the time of such payment or recovery and secondly to the reduction of the principal.

Method of appropriating payments on account of the consolidated loan.

Repayment of House-rate and Market Loans of 1867-68.

104. (1) Until such time as the corporation repay the house-rate loan and the two market loans raised in 1867 and 1868 under the provisions of sections 253 to 258 of the Bombay Municipal Act, 1865, it shall be incumbent on the corporation to maintain out of the taxes, on the security of which the said loans were raised, the sinking-fund prescribed by section 257 of the said Act:

Sinking-fund for house-rate and market loans to be maintained.

(2) Provided that in the event of the corporation's discharging any portion of the said loans at any time previous to the time at which they are repayable in full, it shall be competent to the corporation to reduce *pro tanto* the amount of the said sinking-fund.

Publication of Annual Account of Balances due on Loans.

105. (1) The commissioner shall, in the month of January in each year, publish in the *Bombay Government Gazette* an account showing the balances due by the corporation on the last preceding thirty-first day of December to the Secretary of State for India in Council and to municipal security-holders, respectively, on account of each debt or loan, if any, at the time still repayable by the corporation.

Account of balances due on loans to be published by the commissioner yearly.

(2) The commissioner shall also cause the said account to be printed and a printed copy thereof to be forwarded to the usual or last known local place of abode of each councillor.

CHAPTER VI.

BORROWING POWERS.

106. The corporation may from time to time borrow or re-borrow and take up at interest from the Secretary of State for India in Council, or, with the sanction of the Governor (a)General of India(a) in Council,

Power to borrow from Government or other persons.

S. 106 (a) — (a).—The words between these letters are inserted by S. 2 of Bom. Act IV. of 1888.

from any other person, any sum necessary for the purpose of defraying any costs, charges or expenses incurred, or to be incurred by them in the execution of this Act, or for the purpose of discharging any loan contracted under this Act or any other loan or debt for repayment of which they are liable.

107. If any new loan shall be contracted by the corporation under this

Provisions applicable to any new loan contracted with Government.

Act with the Secretary of State for India in Council, the same shall be subject, as regards repayment and security and in every other respect, to the same provisions as are hereinbefore contained in respect of the consolidated loan, save only that the rate of interest, the period of repayment and the number and amount of the instalments shall, in the case of any such new loan, be fixed, under the orders of the Governor General of India in Council, by the Governor in Council.

108. (1) The corporation may borrow or re-borrow any such sum as

Mortgage of taxes or immoveable property.

aforesaid from any person other than the Secretary of State for India in Council, on the security of any immoveable property belonging to them or proposed to be acquired by them under this Act or of all the taxes or of any tax which they are authorized to levy for the purposes of this Act or of all or any of those securities.

(2) And for the purpose of securing the repayment of any sum so borrowed, with interest thereon, they may mortgage to the person, by or on behalf of whom such sum is advanced, any such immoveable property or tax.

Provisions as to exercise of borrowing powers.

109. The exercise of the powers of borrowing conferred by this Act shall be subject to the following provisions, namely:

- (a) money shall not be borrowed for the execution of any work other than a permanent work, including under this expression any work of which the cost ought, in the opinion of Government, to be spread over a term of years;
- (b) the sum borrowed shall not at any time exceed, with the balances of all the outstanding loans and debts due by the corporation, in the whole, double the rateable value of the premises in the city assessable, as hereinafter provided, to property taxes;
- (c) the money may be borrowed for such time, not exceeding sixty years, as the corporation, with the sanction of (a) the Governor General of India in Council (a), determine in each case;
- (d) the corporation shall either pay off the money so borrowed by equal annual instalments of principal, or of principal and interest, or they shall in every year set apart as a sinking-fund and accumulate in the way of compound interest, by investing

8. 109, clause (c) (a)—(a).—The words between these letters are substituted for the word "Government" by S. 3 of Bom. Act IV. of 1888.

the same in the purchase of public securities, such sum as will, with accumulations in the way of compound interest, be sufficient, after payment of all expenses, to pay off the moneys so borrowed within the period sanctioned ;

(e) the corporation may at any time apply the whole or any part of a sinking-fund set apart under this section in or towards the discharge of the moneys for the repayment of which the fund has been established : provided that they pay into the fund each time that interest would have been received by the corporation in respect of the sinking-fund or the part of the sinking-fund so applied, and accumulate, until the whole of the moneys borrowed are discharged, a sum equivalent to the interest which would have been so received ;

(f) the investment every year of any sum set apart as portion of the principal of a sinking-fund shall be made within fifteen days after the day on which the second half-yearly payment of interest is due by the corporation in respect of the loan for repayment of which such sinking-fund is established ; and the re-investment of any sum received by the corporation on account of interest on moneys appertaining to a sinking-fund already invested, and the investment of any sum payable into the fund under clause (e) as the equivalent of interest which the corporation would have received, if the sinking-fund or a part thereof had not been applied in any manner authorized by the said clause, shall be made within one month from the day on which such interest is received or from the day on which such interest would have been received, as the case may be ;

(g) where money is borrowed for the purpose of discharging a previous loan, the time for repayment of the money so borrowed shall not, unless with the sanction of Government, extend beyond the unexpired portion of the period for which the original loan was sanctioned and shall in no case be extended beyond the period of sixty years from the date of the original loan.

110. (1) Every mortgage authorized to be made under this chapter shall be by debenture in the form contained in Form of securities. schedule C, or in such other form as the corporation, with the consent of Government, shall from time to time determine.

(2) Every debenture issued under this Act shall be transferable by endorsement, and such transfers may be in the form of schedule D, or to the like effect,

(3) The right to payment of the moneys secured by any of such debentures and to sue in respect thereof shall vest in the holder thereof for the time being, without any preference by reason of some of such debentures being prior in date to others.

CHAPTER VII.

REVENUE AND EXPENDITURE.

The Municipal Fund.

111. All moneys received by or on behalf of the corporation under the provisions of this Act or of any other enactment at the time in force, or under any contract,

all proceeds of the disposal of property by, or on behalf of, the corporation, all rents accruing from any property of the corporation,

all moneys raised by any tax, levied for the purposes of this Act,

all fees and fines payable and levied under this Act or under any rule, regulation or by-law in force hereunder,

all fees for licenses for public conveyances granted by the police commissioner under Bombay Act VI. of 1863 (*an Act for the regulation of public conveyances in the town, suburbs and harbour of Bombay*),

all fines levied by any magistrate in respect of any offence against the provisions of this Act, or of any regulation or by-law made under this Act,

all moneys received by or on behalf of the corporation from Government or private individuals by way of grant or gift or deposit, and

all interest and profits arising from any investment of, or from any transaction in connection with, any money belonging to the corporation,

shall be credited to a fund, which shall be called "the municipal fund" and which shall be held by the corporation in trust for the purposes of this Act, subject to the provisions herein contained.

112. All moneys payable to the credit of the municipal fund shall be received by the commissioner and shall be forthwith paid into the Bank ~~for the time being appointed to receive Government dues at Bombay~~ to the credit of an account, which shall be styled "the account of the municipal fund of the city of Bombay."

Commissioner to receive payments on account of the municipal fund and to lodge them in a bank.

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113. (1) Subject to the provisions of section 520, no payment shall be made by the bank aforesaid out of the municipal fund, except upon a cheque signed by the commissioner, and by one member of the standing committee who shall attend at the chief municipal office for this purpose

How the fund shall be drawn against.

at least twice a week, and by the municipal secretary, or in the event of the illness or occasional absence of the commissioner from the city, by two members of the standing committee and by the said secretary.

(2) Payment of any sum due by the corporation in excess of one hundred rupees shall be made by means of a cheque signed as aforesaid and not in any other way.

(3) Payment of any sum due by the corporation, not exceeding one hundred rupees in amount, may be made by the commissioner in cash, cheques for sums not in excess of one thousand rupees each, signed as aforesaid, being drawn from time to time to cover such payments.

114. Notwithstanding anything contained in the two last preceding sections, the commissioner may, with the approval of the standing committee, from time to time remit any portion of the municipal fund to a bank or other agency at any place beyond the city at which it may be desirable for the corporation to have funds in deposit, and any money payable to the credit of the municipal fund or chargeable thereagainst, which can, in the opinion of the commissioner, be most conveniently paid into or out of the account of the corporation at any such bank or agency, may be so paid.

115. (1) Except as hereinafter provided, no payment of any sum shall be made by the commissioner out of the municipal fund, unless the expenditure of the same is covered by a current budget-grant, and a sufficient balance of such budget-grant is still available, notwithstanding any reduction or transfer thereof which may have been made under section 133 or section 134 :

Deposit of portion of the municipal fund may be made with bank or agency out of Bombay, when convenient.

(2) Provided that the following items shall be excepted from this prohibition, namely :—

Exceptions.

- (a) sums of which the expenditure has been sanctioned by the standing committee under section 132 ;
- (b) temporary payments under section 119 for works urgently required in the public service ;
- (c) refunds of taxes and other moneys which the commissioner is by or under this Act authorized to make ;
- (d) repayments of moneys belonging to contractors or other persons held in deposit and of moneys collected or credited to the municipal fund by mistake ;
- (e) sums which the commissioner is by sections 222, sub-section (3), 309, sub-section (2), 315, sub-section (2), 334, sub-section (2), 395, sub-section (2), 426, sub-section (2), 427, sub-section (4), 501, and 515, clause (b) required or empowered to pay by way of compensation ;

- (f) sums payable in any of the circumstances mentioned in clause (f) of section 118;
- (g) expenses incurred by the commissioner in the exercise of the powers conferred upon him by section 434;
- (h) costs incurred by the commissioner under clause (c) of section 64.

(3) In sub-section (1), "budget-grant" means a budget-grant within the meaning of that term as defined in section 130 and includes any sum by which such budget-grant may at any time be increased by a transfer under clause (b) of section 133.

116. The members of the standing committee and the municipal secretary shall not sign any cheque under section 113, without first satisfying themselves that the sum for which such cheque is drawn is either covered by a budget-grant as aforesaid or is an item of one of the excepted descriptions specified in sub-section (2) of the last preceding section.

117. Whenever any sum is expended by the commissioner under clause (e), (f), (g) or (h) of section 115, he shall forthwith communicate the circumstances to the standing committee, who shall take such action under section 133, or recommend the corporation to take, under section 131, such action as shall, in the circumstances, appear possible and expedient for covering the amount of the additional expenditure.

118. The moneys from time to time credited to the municipal fund shall be applied in payment of all sums, charges and costs necessary for the purposes specified in sections 61, 62 and 63, or for otherwise carrying this Act into effect, or of which the payment shall be duly directed or sanctioned under any of the provisions of this Act, inclusive of:

- (a) the expenses of every ward-election and of every justices' election held under this Act;
- (b) the fees payable under section 50 to members of the standing committee;
- (c) the salaries and other allowances of the commissioner and of any deputy commissioner appointed under this Act;
- (d) the salaries and other allowances of all municipal officers and servants, and all pensions, gratuities and compassionate allowances payable under the provisions of this Act or of any schedule or regulation framed under this Act and at the time in force;

(e) all expenses and costs incurred by the commissioner in the exercise of any power or the discharge of any duty conferred or imposed upon him by this Act, including moneys which he is required or empowered to pay by way of compensation;

(f) every sum payable ;

(i) under sub-section (1) of section 520 to Government ;

(ii) under a decree or order of a civil or criminal court passed against the corporation or against the commissioner or a deputy commissioner *ex-officio* ;

(iii) under a compromise of any suit or other legal proceeding or claim effected under section 517.

119. (1) On the written requisition of a secretary to Government, the commissioner may at any time undertake the execution of any work certified by such secretary to be urgently required in the public service, and for this purpose may temporarily make payments from the municipal fund, so far as the same can be made without unduly interfering with the regular working of the municipal administration. The cost of all work so executed and of the establishment engaged in executing the same shall be paid by Government and credited to the municipal fund.

(2) On receipt of any requisition under sub-section (1), the commissioner shall forthwith forward a copy thereof to the corporation, together with a report of the steps taken by him in pursuance of the same.

The School Fund.

120. (1) The portion of the municipal fund to be devoted to the purposes specified in clause (g) of section 61 shall be credited under a separate heading in the municipal accounts and shall be called "the school-fund."

The school fund of what to consist.

(2) There shall be carried every official year to the school-fund :

(a) every grant made by Government for the maintenance or aid of

- primary education ;

(b) the fees levied in schools wholly maintained at the cost of the school-fund ;

(c) such contribution from the general revenue of the corporation as the corporation shall from time to time determine, the same being not less, in each official year, than a sum of such amount as added to the fees levied as aforesaid in the same year would be equal to double the Government grant for that year ;

(d) the unexpended balance, if any, of the school-fund of the last preceding official year ;

- (c) all sums made over to the corporation, by way of endowment or otherwise, for the promotion of primary education.

Other Special Funds.

121. With the approval of the corporation, any other portion of the municipal fund may also, from time to time, be credited to a separate heading in the municipal accounts, provided that there shall be credited and debited to such special heading such sums only as shall expressly relate to the object for which a special fund is so created.

Disposal of Balances.

122. (1) Surplus moneys at the credit of the municipal fund which ^{can be} ~~not required for current charges~~ ^{immediately or at any early date be applied to the use of any loan raised thereunder,} may from time to time be deposited at interest with the Bank ^{of Bombay} or be invested in public securities. ^{(2) ^{all} for the time being appointed to receive Government dues}

^{(3) ^{all} (2)} Such deposits and investments shall be made by the commissioner, on behalf of the corporation, with the sanction of the standing committee, and, with the like sanction, the commissioner may at any time withdraw any deposit so made or dispose of any public securities and re-deposit or re-invest the money so withdrawn, or the proceeds of the disposal of such public securities; but no order for making any deposit, investment, withdrawal or disposal under this section shall have any validity, unless the same be in writing, signed by the commissioner and one member of the standing committee and the municipal secretary.

^{(4) ^{all} (3)} The loss, if any, arising from any such deposit or investment shall be debited to the municipal fund.

Accounts.

123. Accounts of the receipts and expenditure of the corporation shall be kept in such manner and in such forms as the standing committee shall from time to time prescribe.

Accounts to be kept in forms prescribed by standing committee.

124. (1) The commissioner shall, as soon as may be after each first day of April, have prepared a detailed report of the municipal administration of the city during the previous official year, together with a statement showing the amounts of the receipts and disbursements respectively credited and debited to the municipal fund during the said year and the balance at the credit of the fund at the close of the said year.

(2) The commissioner shall incorporate with his said report and statement :

- (a) a report for the same period from each head of a department subordinate to him ;
- (b) the account of balances due on loans then last published under section 105 ;

and shall cause the same to be printed.

(3) After examination and review of the said printed report and statement by the standing committee, there shall be added to the compilation printed copies of such of the appendices attached to the reports of the several heads of departments, if any, as the standing committee direct and a printed copy of the standing committee's review ; and a copy of the complete compilation shall be forwarded to the usual or last known local place of abode of each councillor at least eight days previous to the ordinary meeting of the corporation in the next following month of October, and copies thereof shall be delivered to any person requiring the same, on payment of such reasonable fee for each copy as the commissioner, with the approval of the standing committee, shall determine.

Annual Budget-estimate.

125. The commissioner shall, on or before each tenth day of November, have prepared and lay before the standing committee, in such form as the said committee shall from time to time approve :

Estimates of expenditure and income to be prepared annually by the commissioner.

- (a) an estimate of the expenditure which must or should, in his opinion, be incurred by the corporation in the next ensuing official year ;
- (b) an estimate of all balances, if any, which will be available for re-appropriation or expenditure at the commencement of the next ensuing official year ;
- (c) a statement of proposals as to the taxation which it will, in his opinion, be necessary or expedient to impose under the provisions of this Act in the said year.

126. (1) The standing committee shall, on or as soon as may be after the tenth day of November, consider the estimates and proposals of the commissioner and, after having obtained from the commissioner such further detailed information, if any, as they shall think fit to require, and having regard to all the requirements of this Act, shall frame therefrom subject to such modifications and additions therein or thereto as they shall think fit, a budget-estimate of the income and expenditure of the corporation for the next official year.

Budget-estimate to be prepared by the standing committee.

(2) In such budget-estimate, the standing committee shall :

- (a) propose, with reference to the provisions of chapter VIII., the levy of municipal taxes at such rates and, in the case of town-duties, on such articles, as they shall think fit ;
- (b) provide for the payment, as they fall due, of all instalments of principal and interest for which the corporation may be liable under the provisions of chapter V., or on account of any loan contracted, after the passing of this Act, under chapter VI. ;
- (c) allow for a cash balance at the end of the said year of not less than one lāk of rupees.

(3) The commissioner shall cause the budget-estimate, as finally approved by the standing committee, to be printed and shall, not later than the fifteenth day of December, forward a printed copy thereof to the usual or last known local place of abode of each councillor.

127. At a meeting of the corporation which shall be called for some day in January, not later than the tenth, the budget-estimate prepared by the standing committee shall be laid before the corporation, and they shall proceed to consider the same.

Consideration of budget-estimate by corporation.

128. (1) The corporation shall, on or before the thirty-first day of January, after considering the standing committee's proposals in this behalf, determine, subject to the limitations and conditions prescribed in chapter VIII., the rates at which municipal taxes shall be levied, and the articles on which town-duties shall be levied in the next ensuing official year.

Fixing of rates of taxes.

(2) Except under sections 134 and 196, the rates so fixed and the articles so appointed shall not be subsequently altered for the year for which they have been fixed.

129. Subject to the exigency of sub-section (1) of the last preceding section, the corporation may refer the budget-estimate back to the standing committee for further consideration, or adopt the budget-estimate or any revised budget-estimate submitted to them, either as it stands or subject to such alteration as they deem expedient : provided that the budget-estimate finally adopted by the corporation shall fully provide for each of the matters specified in clauses (b) and (c) of section 126.

Final adoption of budget-estimate.

130. Any sum entered on the expenditure side of a budget-estimate which has been adopted by the corporation shall be termed a " budget-grant."

"Budget-grant" defined.

131. (1) On the recommendation of the standing committee, the Corporation may increase corporation may from time to time during an amount of budget-grants and official year increase the amount of any make additional grants. budget-grant, or make an additional budget-grant for the purpose of meeting any special or unforeseen requirement arising during the said year, but not so that the estimated cash balance at the close of the year shall be reduced below one lakh of rupees.

(2) Such increased or additional budget-grants shall be deemed to be included in the budget-estimate adopted by the corporation for the year in which they are made.

132. If any portion of a budget-grant remains unexpended at the close of the year in the budget-estimate for which Rule as to unexpended budget-grants. such grant was included; and if the amount thereof has not been taken into account in the opening balance of the municipal fund entered in the budget-estimate of the next following year, the standing committee may sanction the expenditure of such unexpended portion during the next following year for the completion, according to the original intention or sanction, of the purpose or object for which the budget-grant was made, but not upon any other purpose or object.

133. (1) The standing committee may, if Reduction or transfer of budget-grants. they think necessary, at any time during an official year :

- (a) reduce the amount of a budget-grant ; or
- (b) transfer and add the amount, or a portion of the amount of one budget-grant to the amount of any other budget-grant in the budget-estimate :

Provided that :

- (c) due regard be had when making any such reduction or transfer to all the requirements of this Act ;
- (d) the aggregate sum of the budget-grants contained in the budget-estimate adopted by the corporation shall not be increased, except by the corporation under section 131 ;
- (e) every such reduction or transfer shall be brought to the notice of the corporation at their next meeting.

(2) If any such reduction or transfer is of an amount exceeding five hundred rupees, the corporation may pass with regard thereto such order as they think fit, and it shall be incumbent on the standing committee and the commissioner to give effect to the said order.

134. (1) If it shall at any time during any official year appear to the corporation, upon the representation of the standing committee, that, notwithstanding any reduction of budget-grants that may have been made by the standing committee under the last preceding section, the income of the municipal fund during the said year will not suffice to meet the expenditure sanctioned in the budget-estimate of the said year and to leave at the close of the year a cash balance of not less than one lākh of rupees, it shall be incumbent on the corporation to forthwith sanction any measure which shall be necessary for proportioning the year's income to the expenditure.

(2) For this purpose, the corporation may either diminish the sanctioned expenditure of the year, so far as it may be possible so to do with due regard to all the requirements of this Act, or have recourse to supplementary taxation.

Scrutiny and Audit of Accounts.

135. (1) The standing committee shall conduct, or cause to be conducted under their superintendence, a weekly scrutiny of the municipal accounts and publish weekly an abstract of the receipts and expenditure of the week last preceding, signed by not less than two members of the said committee and by the municipal secretary.

(2) For this purpose, the standing committee shall have access to all the municipal accounts and to all records and correspondence relating thereto, and the commissioner shall forthwith furnish to the standing committee any explanation concerning receipts and disbursements which they may call for.

136. (1) The municipal accounts shall also be examined and audited from week to week by auditors specially appointed in this behalf for each official year by the corporation.

(2) The auditors so appointed may :

- (a) by summons in writing, require the production before them of any book, deed, contract, account, voucher or other document or paper necessary for the proper conduct of their audit ;
- (b) by summons in writing, require any person having the custody or control of, or accountable for any such book, deed, contract, account, voucher or other document or paper to appear in person before them ;
- (c) require any person so appearing before them to make and sign a declaration with respect to such book, deed, contract, account, voucher or other document or paper.

(3) The auditors so appointed shall receive such reasonable remuneration, not exceeding, in the whole, ten thousand rupees per annum, as the corporation shall from time to time determine.

137. (1) The auditors so appointed shall forthwith report to the standing committee any material impropriety or irregularity which they may at any time observe in the expenditure or in the recovery of moneys due to the corporation or in the municipal accounts, and shall furnish to the standing committee such information as the said committee shall from time to time require concerning the progress of their audit and shall, as soon as may be after the commencement of each official year, deliver to the standing committee a report upon the whole of the municipal accounts for the previous official year.

(2) The commissioner shall cause the said report to be printed and forward a printed copy thereof, along with the printed copy of the administration report and statement of accounts which he is required by sub-section (3) of section 124 to forward, to each councillor.

138. (1) The Governor in Council may at any time appoint an auditor for the purpose of making a special audit of the municipal accounts and of reporting thereon to Government, and the costs of any such audit, as determined by the Governor in Council, shall be chargeable to the municipal fund.

(2) An auditor so appointed may exercise any power which an auditor appointed by the corporation may exercise.

CHAPTER VIII.—MUNICIPAL TAXATION.

MUNICIPAL TAXES DEFINED.

Taxes to be imposed under this Act. 139. For the purposes of this Act, taxation shall be imposed as follows, namely :

- (1) property-taxes ;
- (2) a tax on vehicles and animals ;
- (3) a toll on vehicles entering the city from Salsette ; and
- (4) town-duties.

PROPERTY-TAXES.

Property-taxes leviable.

Property-taxes of what to consist, and at what rates leviable. 140. The following taxes shall be levied on buildings and lands in the city, and shall be called "property-taxes," namely :

- (a) a water-tax of so many per centum of their rateable value as the corporation shall deem reasonable with reference to the expenses of providing a water-supply for the city ;

Water-tax.

- (b) a halálkhor-tax of so many per centum, not exceeding three, of their rateable value as will,

Halálkhor-tax.

in the opinion of the corporation, suffice to provide for the collection, removal and disposal, by municipal agency, of all excrementitious and polluted matter from privies, urinals and cesspools and for efficiently maintaining and repairing the municipal drains constructed or used for the reception or conveyance of such matter, subject, however, to the provisoes that the minimum amount of such tax to be levied in respect of any one separate holding of land, or of any one building or of any one portion of a building which is let as a separate holding, shall be four annas per month, and that the amount of such tax to be levied in respect of any hotel, club or other large premises may be specially fixed under section 172 ;

- (c) a general tax of not less than eight and not more than twelve

General tax.

per centum of their rateable value, together with not less than one-eighth and not more than three-quarters per centum of their rateable value added thereto in order to provide for the expense necessary for fulfilling the duties of the corporation arising under clause (k) of section 61 and chapter XIV.

141. Subject to the provisions of section 169, the water-tax shall be levied only in respect of premises :

Water-tax on what premises to be levied.

- (a) to which a private water-supply is furnished from, or which are connected by means of communication-pipes with, any municipal water-work ; or
- (b) which are situated in a portion of the city in which the commissioner has given public notice that sufficient water is available from municipal water-works for furnishing a reasonable supply to all the premises in the said portion.

Halálkhor-tax on what premises to be levied.

142. (1) The halálkhor-tax shall be levied only in respect of premises :

- (a) situated in any portion of the city in which public notice has been given by the commissioner that the collection, removal and disposal of all excrementitious and polluted matter from privies, urinals and cesspools will be undertaken by municipal agency ; or
- (b) in which, wherever situate, there is a privy, water-closet, cess-pool, urinal, bathing-place or cooking-place connected by a drain with a municipal drain :

(2) Provided that the said tax shall not be levied in respect of any premises situated in any portion of the city specified in clause (a), in or upon which, in the opinion of the commissioner, no such matter as aforesaid accumulates or is deposited.

(3) If the commissioner directs, under sub-section (2) of section 248, that a separate water-closet, privy or urinal need not be required for any premises, the halálkhor-tax shall, nevertheless, be levied in respect of the said premises, if, but for such direction, the same would be leviable in respect thereof.

General tax on what premises to be levied. 143. (1) The general tax shall be levied in respect of all buildings and lands in the city, except—

- (a) buildings exclusively occupied for public worship or for charitable purposes ;
- (b) buildings and lands vesting in Her Majesty or in the corporation, in respect of which the said tax, if levied, would under the provisions hereinafter contained be primarily leviable from the Secretary of State for India in Council or the corporation, respectively.

(2) The following buildings shall not be deemed to be buildings exclusively occupied for public worship or for charitable purposes within the meaning of clause (a), namely :

- (c) buildings in which any trade or business is carried on ; and
- (d) buildings in respect of which rent is derived, whether such rent is or is not applied exclusively to religious or charitable purposes.

144. (1) The Secretary of State for India in Council shall pay to the corporation annually, in lieu of the general tax from which buildings and lands vesting in Her Majesty are exempted by clause (b) of section 143, a sum ascertained in the manner provided in sub-sections (2) and (3).

(2) The rateable value of the buildings and lands in the city vesting in Her Majesty and beneficially occupied, in respect of which, but for the said exemption, general tax would be leviable from the Secretary of State for India in Council, shall be fixed by a person from time to time appointed in this behalf by the Governor in Council, with the concurrence of the corporation. The said value shall be fixed by the said person, with a general regard to the provisions hereinafter contained concerning the valu-

Ss. 143, 144.—In these sections the words "Her Majesty" are printed in place of the words "the Secretary of State for India in Council" and the word "him", being substituted therefor by S. 5 of Bombay Act IV. of 1888.

ation of property assessable to property-taxes, at such amount as he shall deem to be fair and reasonable. The decision of the person so appointed shall hold good for a term of five years, subject only to proportionate variation, if in the meantime the number or extent of the buildings and lands vesting in Her Majesty in the city materially increases or decreases.

(3) The sum to be paid annually to the corporation by the Secretary of State for India in Council shall be eight-tenths of the amount which would be payable by an ordinary owner of buildings or lands in the city, on account of the general tax, on a rateable value of the same amount as that fixed under sub-section (2).

Amendment of section 36, Bombay Act VI. of 1879.

145. For section thirty-six of the Bombay Port Trust Act, 1879, the following section shall be substituted, namely :

“36. The Board shall pay annually, on the thirtieth day of September, to the Municipal Corporation of the city of Bombay, in lieu of the general tax leviable by the said corporation in respect of the property, or some portion of the property, vested in the Board, which would otherwise be liable to be assessed to the said tax, a sum ascertained in the manner provided in sub-sections (2) and (3).

“ (2) The rateable value of the buildings and lands in the city vesting in the Board in respect of which the said tax would be leviable from the Board shall be fixed from time to time by the Governor in Council. The said value shall be fixed, with a general regard to the provisions contained in the City of Bombay Municipal Act, 1888, concerning the valuation of property assessable to property-taxes, at such amount as the Governor in Council shall deem to be fair and reasonable. Every such decision of the Governor in Council shall hold good for a term of five years, subject only to proportionate variation, if in the meantime the number or extent of the buildings and lands vesting in the Board materially increases or decreases.

“ (3) The sum to be paid annually to the corporation by the Board shall be nine-tenths of the amount which would be payable by an ordinary owner of buildings or lands in the city, on account of the general tax, on a rateable value of the same amount as that fixed under sub-section (2).”

Liability for Property-taxes.

146. (1) Property-taxes shall be leviable primarily from the actual occupier of the premises upon which the said taxes are assessed, if such occupier holds the

Primary responsibility for property-taxes on whom to rest.

said premises immediately from Government or from the corporation or from a fazendár.

(2) Otherwise the said taxes shall be primarily leviable as follows, namely :

- (a) if the premises are let, from the lessor ;
- (b) if the premises are sub-let, from the superior lessor ;
- (c) if the premises are unlet, from the person in whom the right to let the same vests.

(3) But if any land has been let for any term exceeding one year to a tenant, and such tenant has built upon the land, the property-taxes assessed upon the said land and upon the building erected thereon shall be primarily leviable from the said tenant or his legal representative, whether the premises be in the occupation of the said tenant or of his legal representative, or of a sub-tenant.

147. (1) If any premises assessed to any property-tax are let, and their rateable value exceeds the amount of rent payable in respect thereof to the person from whom, under the provisions of the last preceding section, the said tax is leviable, the said person shall be entitled to receive from his tenant the difference between the amount of the property-tax levied from him and the amount which would be leviable from him if the said tax were calculated on the amount of rent payable to him.

(2) If the premises are sub-let and their rateable value exceeds the amount of rent payable in respect thereof to the tenant by his sub-tenant, or the amount of rent payable in respect thereof to a sub-tenant by the person holding under him, the said tenant shall be entitled to receive from his sub-tenant, or the said sub-tenant shall be entitled to receive from the person holding under him, as the case may be, the difference between any sum recovered under this section, from such tenant or sub-tenant and the amount of property-tax which would be leviable in respect of the said premises if the rateable value thereof were equal to the difference between the amount of rent which such tenant or sub-tenant receives and the amount of rent which he pays.

(3) Any person entitled to receive any sum under this section shall have, for the recovery thereof, the same rights and remedies as if such sum were rent payable to him by the person from whom he is entitled to receive the same.

148. If any person who is primarily liable for the payment of any property-tax himself pays rent to another person other than Government or the corporation in respect of the premises upon which such tax is assessed, he shall be entitled to credit in account with such other person for such sum as would be leviable on account of the said tax if the amount of the rent payable by him were the rateable value of the said premises.

Notice of transfer, &c., of premises assessable to property-taxes.

149. (1) Whenever the title of any person primarily liable for the payment of property-taxes on any premises to or over such premises is transferred, the person whose title is so transferred and the person to whom the same shall be transferred shall, within three months after execution of the instrument of transfer, or after its registration, if it be registered, or after the transfer is effected, if no instrument be executed, give notice of such transfer, in writing, to the commissioner.

Notice to be given to the commissioner of all transfers of title of persons primarily liable to payment of property-tax.

(2) In the event of the death of any person primarily liable as aforesaid, the person to whom the title of the deceased shall be transferred, as heir or otherwise, shall give notice of such transfer to the commissioner within one year from the death of the deceased.

150. (1) The notice to be given under the last preceding section shall be in the form, either of schedule E or schedule F, as the case may be, and shall state clearly and correctly all the particulars required by the said form.

Form of notice.

(2) On receipt of any such notice, the commissioner may, if he thinks it necessary, require the production of the instrument of transfer, if any, or of a copy thereof obtained under section 57 of the Indian Registration Act, 1877.

151. (1) Every person primarily liable for the payment of a property-tax on any premises, who transfers his title to or over such premises without giving notice of such transfer to the commissioner as aforesaid shall, in addition to any other liability which he incurs through such neglect, continue liable for the payment of all property-taxes from time to time payable in respect of the said premises until he gives such notice, or until the transfer shall have been recorded in the commissioner's books.

Liability for payment of property-taxes to continue in the absence of any notice of transfer.

(2) But nothing in this section shall be held to diminish the liability of the transferee for the said property-taxes, or to affect the prior claim of the commissioner on the premises, conferred by section 212, for the recovery of the property-taxes due thereupon.

Notice to be given to the commissioner of the erection of a new building, &c.

152. (1) When any new building is erected, or when any building is rebuilt or enlarged,

or when any building which has been vacant is re-occupied,

the person primarily liable for the property-taxes assessed on the building shall within fifteen days give notice thereof, in writing, to the commissioner.

(2) The said period of fifteen days shall be counted from the date of the completion or of the occupation, whichever first occurs, of the building which has been newly erected or rebuilt, or of the enlargement, as the case may be, and, in the case of a building which has been vacant, from the date of the re-occupation thereof.

153. (1) When any building or any portion of a building, which is liable to the payment of a property-tax, is demolished or removed, otherwise than by order of the commissioner, the person primarily liable for the payment of the said tax shall give notice thereof in writing to the commissioner.

(2) Until such notice is given, the person aforesaid shall continue liable to pay every such property-tax as he would have been liable to pay in respect of such building, if the same, or any portion thereof, had not been demolished or removed.

Valuation of property assessable to property-taxes.

154. (1) In order to fix the rateable value of any building or land assessable to a property-tax, there shall be deducted from the amount of the annual rent for which such land or building might reasonably be expected to let from year to year, a sum equal to ten per centum of the said annual rent, and the said deduction shall be in lieu of all allowance for repairs or on any other account whatever.

(2) The value of any machinery contained or situated in or upon any building or land shall not be included in the rateable value of such building or land.

155. (1) To enable him to determine the rateable value of any building or land and the person primarily liable for the payment of any property-tax leviable in respect thereof, the commissioner may require the owner or occupier of such building or land, or of any portion thereof, to furnish him, within such reasonable period as the commissioner prescribes in this behalf, with information, or with a written return signed by such owner or occupier :

- (a) as to the name and place of abode of the owner or occupier, or of both the owner and occupier of such building or land ; and
- (b) as to the dimensions of such building or land, or of any portion thereof and the rent, if any, obtained for such building or land, or any portion thereof.

(2) Every owner or occupier on whom any such requisition is made shall be bound to comply with the same and to give true information or to make a true return to the best of his knowledge or belief.

(3) The commissioner may also, for the purpose aforesaid, make an inspection of any such building or land.

Assessment-book.

Assessment-book what to contain.

156. The commissioner shall keep a book, to be called "the Assessment-book," in which shall be entered every official year :

- (a) a list of all buildings and lands in the city, distinguishing each, either by name or number, as he shall think fit ;
- (b) the rateable value of each such building and land determined in accordance with the foregoing provisions of this Act ;
- (c) the name of the person primarily liable for the payment of the property-taxes, if any, leviable on each such building or land ;
- (d) if any such building or land is not liable to be assessed to the general tax, the reason of such non-liability ;
- (e) when the rates of the property-taxes to be levied for the year have been duly fixed by the corporation and the period fixed by public notice, as hereinafter provided, for the receipt of complaints against the amount of rateable value entered in any portion of the assessment-book has expired, and, in the case of any such entry which is complained against, when such complaint has been disposed of in accordance with the provisions hereinafter contained, the amount at which each building or land entered in such portion of the assessment-book is assessed to each of the property-taxes, if any, leviable thereon ;
- (f) if, under section 169 or 170, a charge is made for water supplied to any building or land by measurement or the water-tax or charge for water by measurement is compounded for, or if, under section 172, the halálkhor-tax for any building or land is fixed at a special rate, the particulars and amount of such charge, composition or rate ;
- (g) such other details, if any, as the commissioner from time to time thinks fit to direct.

157. (1) The assessment-book shall be made in separate books, called "ward assessment-books," one for each of the

The assessment-book to be made separately for each ward and in parts, if necessary.

wards into which the city is for the time being divided under the provisions of section 24 ; and each ward assessment-book may, if the commissioner thinks fit, be divided into two or more parts for such purposes and with such several designations as the commissioner shall determine.

(2) The ward assessment-books and their respective parts, if any, shall collectively constitute the assessment-book.

158. (1) When any building or land is let to two or more persons holding in severalty, the commissioner may, for the purpose of assessing such building or land to the property-taxes, either treat the whole thereof as one property or, with the written consent of the owner of such building or land, treat each several holding therein or any two or more of such several holdings together, or each floor or flat, as a separate property.

(2) When the commissioner has determined to treat all the several holdings comprised within any one building or land under this section as one property, he may, subject to any general conditions which may from time to time be prescribed by the standing committee in this behalf, at any time not later than seven days before the first day of any half-year for which an instalment of general tax will be leviable in respect of the said property, sanction a drawback of one-fifth part of the general tax so leviable.

159. (1) When the name of the person primarily liable for the payment of property-taxes in respect of any premises cannot be ascertained, it shall be sufficient to designate him in the assessment-book and in any notice which it may be necessary to serve upon the said person under this Act, "the holder" of such premises, without further description.

(2) If, in any such case, any person in occupation of the premises shall refuse to give such information as may be requisite for determining who is primarily liable as aforesaid, such person shall himself be liable, until such information is obtained, for all property-taxes leviable on the premises of which he is in occupation.

160. (1) When the entries required by clauses (a), (b), (c) and (d) of section 156 have been completed, as far as practicable, in any ward assessment-book, the commissioner shall give public notice thereof and of the place where the ward assessment-book, or a copy of it, may be inspected.

(2) Such public notice shall be given by advertisement in the *Bombay Government Gazette* and in the local newspapers, and also by posting placards in conspicuous places throughout the ward.

161. (1) Every person who reasonably claims to be the owner or occupier of some premises entered in the assessment-book or the agent of any such owner or occupier shall be permitted, free of charge, to inspect and to take extracts from any portion of the said book which relates to the said premises.

(2) Any person not entitled under sub-section (1) to inspect and take extracts from any portion of the assessment-book free of charge, shall be permitted to do so on payment of such fee as shall from time to time be prescribed in this behalf by the commissioner, with the approval of the standing committee.

162. (1) The commissioner shall, at the time and in the manner prescribed in section 160, give public notice of a day, not being less than fifteen days from the publication of such notice, on or before which complaints against the amount of any rateable value entered in the ward assessment-book will be received in his office.

Time for filing complaints against valuations to be publicly announced.

(2) In every case in which any premises have for the first time been entered in the assessment-book as liable to the payment of property-rates, or in which the rateable value of any premises liable to such payment has been increased, the commissioner shall, as soon as conveniently may be after the issue of the public notice under sub-section (1), give a special written notice to the owner or occupier of the said premises specifying the nature of such entry and informing him that any complaint against the same will be received in his office at any time within fifteen days from the service of the special notice.

Special notices to be issued in certain cases.

163. (1) Every complaint against the amount of any rateable value entered in the assessment-book must be made by written application to the commissioner, which shall be left at his office on or before the day or the latest day fixed in this behalf in the public or special notice aforesaid.

Time and manner of filing complaints against valuations.

(2) Every such application shall set forth briefly but fully the grounds on which the valuation is complained against.

164. The commissioner shall cause all complaints so received to be registered in a book to be kept for this purpose and shall give notice, in writing, to each complainant of the day, time and place, when and whereat his complaint will be investigated.

Notice to complainants of day fixed for investigating their complaints.

165. (1) At the time and place so fixed, the commissioner shall investigate and dispose of the complaint in the presence of the complainant, if he shall appear, and, if not, in his absence.

Hearing of complaint.

(2) For reasonable cause, the commissioner may from time to time adjourn the investigation.

(3) When the complaint is disposed of, the result thereof shall be noted in the book of complaints kept under section 164, and any necessary amendment shall be made, in accordance with such result, in the assessment-book.

166. (1) When all such complaints, if any, have been disposed of, and the entries required by clause (e) of section 156 have been completed in the ward assessment-book, the said book shall be authenticated by the commissioner, who shall certify, under his signature, that except in the cases, if any, in which amendments have been made, as shown therein, no valid objection has been made to the rateable values entered in the said book.

(2) Thereupon the said ward assessment-book, subject to such alterations as may thereafter be made therein under the provisions of the next following section, shall be accepted as conclusive evidence of the amount of each property-tax leviable on each building and land in the ward in the official year to which the book relates.

167. (1) The commissioner may, upon the representation of any person concerned, or upon any other information, at any time during the official year to which an assessment-book relates, amend the same by inserting therein the name of any person whose name ought to be so inserted or any premises previously omitted, or by striking out the name of any person not liable for the payment of any property-tax, or by increasing or reducing the amount of any rateable value and of the assessment based thereupon, or by making or cancelling an entry exempting any premises from liability to any property-tax.

(2) Every such amendment shall be deemed to have been made, for the purpose of determining the liability or exemption of the person concerned in accordance with the altered entry, from the earliest day in the current official year when the circumstances justifying the amendment existed.

168. (1) It shall not be necessary to prepare a new assessment-book every official year. Subject to the provisions of sub-section (3), the commissioner may adopt the entries in the last preceding year's book, with such alterations as he thinks fit, as the entries for each new year.

(2) But public notice shall be given, in accordance with sections 160 and 162 every year, and the provisions of the said sections and of sections 163 to 167, both inclusive, shall be applicable each year.

(3) A new assessment-book shall be prepared at the least once in every four years.

Special provisions concerning the Water and Halálkhor Taxes.

169. (1) The commissioner may :

A charge by measurement or a periodical lump-payment may be substituted for the water-tax.

(a) in such cases as the standing committee shall either generally or specially direct, instead of levying the water-tax in respect of any premises liable thereto under section 141, charge for the water supplied to such premises, by measurement, at such rate as shall from time to time be prescribed by the said committee in this behalf;

(b) with the approval of the standing committee compound with any person for the supply of water to any premises for a renewable term of one or more years not exceeding five, on payment of a fixed periodical sum, in lieu of the water-tax or charge by measurement which would otherwise be leviable from such person in respect of the said premises.

(2) The standing committee may, for the cases in which the commissioner charges for water by measurement under clause (a), from time to time prescribe such conditions as they shall think fit, as to the use of the water and as to the charge to be paid for water consumed whilst a meter is out of order or under repair; and in each case in which a composition is made under clause (b), the said committee may prescribe such conditions as to the use of the water as they shall think fit: provided that no condition prescribed under this sub-section shall be inconsistent with this Act or with any by-law made under this Act.

(3) A person who is charged for water by measurement or who has compounded for a fixed periodical sum shall not be liable for payment of the water-tax, but any sum payable by him on account of water and not paid when it becomes due, shall be recoverable by the commissioner as if it were an arrear of water-tax.

170. If, in respect of any premises, water-tax would be leviable under this Act from the Secretary of State for India

Government and the Port Trust to be charged for water by measurement.

in Council or from the Trustees of the Port of Bombay, the commissioner, in lieu of levying such tax, shall charge for the water supplied to such premises, by measurement, at such rate as shall be prescribed by the standing committee in this behalf, not exceeding, in the case of the Secretary of State for India in Council, the minimum rate, and in the case of the said Trustees, the maximum rate at the time being charged under clause (a) of section 169 to any other person; and such charge shall be recoverable as provided in sub-section (3) of the said section.

171. No tax or charge of any kind shall be levied or demanded for the use of water in or from any drinking-fountain, tank, reservoir, cistern, pump, well, duct, stand-pipe or other work, used for the gratuitous supply of water to the inhabitants of the city and vesting in the corporation: provided that the use of water in or from any such work shall be limited as prescribed in sub-section (3) of section 269.

172. (1) The commissioner may, whenever he thinks fit, fix the halálkhor-tax to be paid in respect of any hotel, club or other large premises at such special rate as shall be approved by the standing committee in this behalf, either generally or in any particular case, whether the service in respect of which such tax is leviable be performed by halálkhors or by substituted means or appliances.

(2) In the case of premises in respect of which the halálkhor-tax is payable by the Secretary of State for India in Council or by the Trustees of the Port of Bombay, the commissioner shall fix the said tax at a special rate approved as aforesaid.

(3) In any such case the amount of the halálkhor-tax shall be fixed with reference to the cost or probable cost of the collection, removal and disposal, by the agency of municipal halálkhors, of excrementitious and polluted matter from the premises.

173. (1) Any person who has paid to the commissioner any water-tax or halálkhor-tax in respect of any premises, shall, if he was not himself in occupation of the said premises during the period for which he has made such payment, be entitled to receive the amount of the said payment from the person, if any, in actual occupation of the said premises for the said period.

(2) For the recovery of the said amount from the person aforesaid the person who has paid the same shall have the same rights and remedies as if such amount were rent payable to him by the person from whom he is entitled to receive the same.

Refund of property-taxes for vacancies.

174. When any building or land, or any portion of any premises which the commissioner has treated under section 158 as a separate property, has been vacant for not less than thirty consecutive days, the commissioner shall, subject to the provisions herein-after contained, refund the amount of the water-tax and halálkhor-tax, if any, paid for the number of days that such vacancy lasted.

175. When any building or land, or any portion of any premises which the commissioner has treated under section 158 as a separate property, has been vacant for not less than sixty consecutive days, the commissioner shall, subject to the provisions hereinafter contained, refund two-thirds of the amount of the general tax, if any, paid for the number of days that such vacancy lasted.

Refund of general tax when and to what extent obtainable.

176. (1) No refund of any property-tax shall be claimable from the commissioner as aforesaid, unless notice in writing of the vacancy shall have been given by the person liable for the payment of the tax, or his agent, to the commissioner.

Refund not claimable unless notice of vacancy is given to the commissioner.

(2) No refund shall be paid by the commissioner for any period previous to the day of the delivery of such notice.

(3) When a vacancy continues from one half-year in respect of which property-taxes are, under section 197, recoverable, into the next following half-year, no refund of any property-tax shall be claimable from the commissioner as aforesaid on account of such continued vacancy, unless notice thereof shall be given to the commissioner as aforesaid within thirty days from the commencement of the said next following half-year.

177. No refund of water-tax shall be claimable except from such time as a written application shall have been made to the commissioner to stop the water-supply to the vacant premises.

Refund of water-tax inadmissible unless application for stopping water-supply has been made.

Refund of general tax inadmissible when drawback has been sanctioned.

178. No refund of general tax shall be claimable in any case in which the commissioner has sanctioned a draw-back under subsection (2) of section 158.

179. It shall be in the discretion of the commissioner to disallow any claim for refund of any property-tax, unless application therefor is made to him in writing within thirty days after the expiry of the half-year to which the claim relates, accompanied by the bill presented to the applicant under section 200 for the amount of the tax from which the refund is claimed.

Applications for refund when and how to be made.

TAX ON VEHICLES AND ANIMALS.

180. Except as hereinafter provided, a tax at rates not exceeding those specified in schedule G shall be levied on all vehicles and on all animals of the descriptions specified in the said schedule which are kept within the city.

Tax on what vehicles and animals to be levied.

Exemptions from the tax.

181. The said tax shall not be leviable in respect of :

- (a) any vehicle or animal certified by the commissioner or the police commissioner, as the case may be, to be employed by the owner thereof for municipal or police purposes ;
- (b) gun-carriages, ordnance-carts or wagons, and artillery and cavalry horses ;
- (c) any horse which any person, exempted, by an order issued under section 3 of the Municipal Taxation Act, 1881, from the operation of any municipal tax on horses, is bound, by the regulations of the service to which he belongs, to keep ;
- (d) any horse exempted from municipal taxation by section twenty-five of the Indian Volunteers' Act, 1869 ;
- (e) vehicles and animals belonging to Her Majesty or to the corporation ;
- (f) vehicles and animals which belong to the persons to whom the right of working street-tramways in the city is granted by the Bombay Tramways Act, 1874, and which are exempted from municipal taxation by the said Act ;
- (g) vehicles kept by *bond fide* dealers in vehicles for sale merely, and not used ;
- (h) trucks used exclusively on a wharf, or in or upon any premises appertaining to a factory, workshop, warehouse or railway ;
- (j) hand-barrows having one wheel only and children's perambulators.

182. (1) Every person who has owned or had charge of any vehicle or animal in respect of which the tax aforesaid is leviable shall, if he has owned or had charge thereof :

Periods by which liability for the tax is determinable.

- (a) for not less than thirty days in any quarter, be liable for the whole tax for that quarter ;
- (b) for less than thirty but more than seven days in any quarter, be liable for one-third of the whole tax for that quarter ;
- (c) for not more than seven days in any quarter, be exempt from liability for the tax for that quarter.

(2) When a person has owned or had charge of two or more vehicles or two or more animals of the same description, each at different periods in one quarter, he shall, for the purposes of this section, be deemed to have owned or had charge of one vehicle or one animal only, as the case may be, for the aggregate number of days in the said two or more periods.

S. 181 (e).—In this clause the words "Her Majesty" are printed in place of the words "the Secretary of State for India in Council" being substituted therefor by S. 5 of Bom. Act IV. of 1888.

183. If a vehicle has been under repair or standing at a carriage-maker's during the whole of any quarter, no tax shall be leviable in respect thereof for that quarter.

Vehicles under repair or standing at carriage-maker's exempt.

184. If an animal has been, during the whole of any quarter, in any institution for the reception of infirm or diseased animals, or if any animal certified by a veterinary surgeon to have been unfit for use during the whole of any quarter has not been used during such quarter, no tax shall be leviable in respect of such animal for that quarter.

Animals unfit for use and not used, exempt.

185. The commissioner may, with the approval of the standing committee, compound with any livery-stable-keeper or other person keeping vehicles or horses or bullocks for hire, or with any dealer having stables in which horses are kept for sale on commission or otherwise, for the payment of a lump sum for any period not exceeding one year at a time, in lieu of the taxes which such livery-stable-keeper or other person or dealer would otherwise be liable to pay under section 180.

Livery-stable-keepers and others may be compounded with.

186. (1) The commissioner shall keep a book, in which shall be entered from time to time:

Vehicle and animal tax-book to be kept.

- (a) a list of the persons liable to pay any tax under section 180 ;
- (b) a specification of the vehicles and animals in respect of which the said persons are, respectively, liable to the said tax ;
- (c) the amount of tax payable by each such person and the period for which it is payable ;
- (d) the particulars of every composition made under section 185.

(2) Any person whose name is entered in the said book, or the agent of any such person, shall be permitted, free of charge, to inspect and take extracts from any portion of the said book which relates to such person.

(3) Any person not entitled under sub-section (2) to inspect and take extracts from any portion of the said book free of charge, shall be permitted to do so on payment of such fee as shall from time to time be prescribed in this behalf by the commissioner, with the approval of the standing committee.

187. (1) In order that the said list may be prepared, the commissioner may require:

Returns may be called for from owners of premises and persons supposed to be liable to the tax.

- (a) the owner of any premises let to or occupied by more than one person owning or having the charge of vehicles and animals, to furnish him with a written return signed by such owner, of the name and address of each of the said persons and of the animals and vehicles owned by or in the charge of each of the said persons kept upon such owner's premises ;

- (b) any person supposed to be liable to the payment of any tax on a vehicle or animal, to furnish him with a written return signed by such person and containing such information concerning the vehicles and animals, if any, owned by or in the charge of such person as the commissioner shall deem necessary.

(2) Every person on whom any such requisition is made shall be bound to comply with the same, within such reasonable period as the commissioner prescribes in this behalf, whether such person be liable to the payment of any such tax or not, and to make a true return to the best of his knowledge or belief.

188. Every person who, in any quarter for which a tax on vehicles and animals is leviable, becomes possessed of any vehicle or animal in respect of which he will be liable to the payment of the said tax, shall, if in the immediately preceding quarter he was not liable to the payment of any such tax, give notice, in writing, to the commissioner, within fifteen days after he has become possessed of such vehicle or animal, of the fact of his having become possessed thereof.

Notice to be given to commissioner by a person not hitherto liable to the tax, who becomes possessed of a vehicle or animal in respect of which liability arises.

189. (1) The commissioner may make an inspection of any stable or coach-house or any place wherein he may have reason to believe that there is any vehicle or animal liable to a tax under this Act.

Power to inspect stables and summon persons liable to the tax.

(2) The commissioner may, by written summons, require the attendance before him of any person whom he has reason to believe to be liable to the payment of a tax in respect of a vehicle or animal, or of any servant of any such person and may examine such person or servant as to the number and description of vehicles and animals owned by or in the charge of such person; and every person so summoned shall be bound to attend before the commissioner and to give true information, to the best of his knowledge or belief, as to the said matters.

TOLL ON VEHICLES ENTERING THE CITY FROM SALSETTE.

190. (1) A toll at a rate not exceeding two annas each, shall be levied on all vehicles entering the city from Salsette which are not liable to the tax leviable under section 180, except vehicles of the descriptions specified in clauses (a), (b), (c), (e), (f), and (h) of section 181.

Rate and method of levying the toll.

(2) The said toll shall be leviable on each occasion that any vehicle liable thereto enters the city from Salsette.

191. (1) The driver of every vehicle in respect of which a toll is paid under the last preceding section shall be entitled to receive from the person who collects the same a ticket certifying payment thereof.

Ticket certifying payment of toll to be given to driver of vehicle;

- (2) The possession of any such ticket shall not, however, be deemed to exempt the person who owns or has charge of the vehicle from the tax leviable under section 180, if such vehicle is kept in the city for any such period as renders it liable to the said tax.
- but vehicle on which toll has been paid not to be exempt from tax under section 180, if otherwise liable thereto.

TOWN-DUTIES.

192. (1) Except as hereinafter provided, duties at rates not exceeding those respectively specified in schedule H shall be levied in respect of the several articles mentioned in the said schedule or of so many of them as the corporation shall, from year to year, in accordance with section 128, determine, when the said articles are imported from any place into the city.

Town-duties at what rates and on what articles leviable.

- (2) The said duties shall be called "town-duties."

193. The commissioner shall cause tables of the town-duties for the time being leviable, specifying the rates at which and the articles on which the same are leviable, to be printed in the English, Gujaráthi, Maráthi and Urdu languages and to be affixed in a conspicuous position at every place at which the said town-duties are levied.

Table of rates of town-duties to be affixed on certain places.

194. (1) No town-duty shall be leviable on any article which, at the time of its importation, is certified by an officer empowered by Government in this behalf to be the property of Government.

Exemption of articles belonging to Government from town-duty.

(2) If any article on which town-duty is paid is imported under a written declaration signed by the importer that such article is being imported for the purpose of fulfilling a specified contract with Government or otherwise for the use of Government, the full amount of the duty paid thereon shall be refunded, on production, at any time within six months after importation, of a certificate signed by an officer empowered by Government in this behalf certifying that the article so imported has become the property of Government.

Refund of town-duty on articles which become the property of Government after importation.

195. (1) When any article upon which town-duty has been paid shall be exported from the city, the full amount of the duty so paid shall, subject to the provisions hereinafter contained, be refunded.

Refund of town-duty on export.

(2) Such refunds shall be paid under such rules as the commissioner, with the approval of the standing committee, shall from time to time frame in this behalf :

(3) Provided that :

- (a) no refund shall be paid on any article, other than timber or flour, not exported within six months, or on any timber not exported within twelve months, from the date of its importation ;
- (b) a refund shall be claimable on all flour exported from the city, without proof of the importation of the same into the city, equal to seventy-five per centum of the amount of the duty at the time being leviable on the grain from which such flour has been prepared ;
- (c) no refund shall be paid unless the same is applied for within one month from the date of exportation ;
- (d) no refund shall be made of any less amount than five rupees ;
- (e) no rule framed by the commissioner under this section shall have effect, unless and until it is confirmed by Government.

SUPPLEMENTARY TAXATION.

196. Whenever the corporation determine, under section 134, to have

Any tax impossible under this Act may be increased by way of imposing supplementary taxation.

recourse to supplementary taxation in any official year, they shall do so by increasing, for the unexpired portion of the said year, the rates at which any tax impossible under this Act is being levied or by adding to the number of articles on which town-duties are being levied, but every such increase or addition shall be made subject to the limitations and conditions on which any such tax is imposable.

COLLECTION OF TAXES.

197. Each of the property-taxes shall be payable in advance in half-

Property-taxes payable half-yearly in advance.

yearly instalments on each first day of April and each first day of October.

198. (1) Except as is hereinafter otherwise provided, the tax on

Tax on vehicles and animals payable quarterly in arrear ; but

vehicles and animals shall be payable quarterly in arrear on each first day of April and each first day of July and each first day of October and each first day of January :

(2) Provided that in the case of any public conveyance licensed by the police commissioner under Bombay Act VI. of

tax on public conveyances to be paid in advance.

1863 (*an Act for the regulation of public conveyances in the town, suburbs and harbour of Bombay*), the person who keeps or lets such public conveyance for hire shall be required by the said commissioner, before any license is issued to him under the said Act, to pay into the municipal office the tax leviable on the

said public conveyance and the animal or animals used for the same, for the whole period for which such license is to be granted,* together with the fee payable for such license.

199. Tolls on vehicles entering the city from Salsette and town-duties shall be payable on demand.

200. (1) When any property-tax or tax on vehicles and animals, other than public conveyances and the animals used therefor, or any instalment of any such tax, shall have become due, the commissioner shall, with the least practicable delay, cause to be presented to the person liable for the payment thereof a bill for the sum due.

(2) Every such bill shall specify the period for which and the premises, vehicle or animal in respect of which the tax is charged, and shall also give notice of the time within which an appeal may be preferred, as hereinafter provided, against such tax.

201. (1) All the sums due for each half-year for all or any of the three property-taxes by any one person on account of one and the same property shall be charged to such person in one bill and shall be recoverable from him in the lump: provided that nothing herein contained shall affect the liability of such person to any increased tax to which he may be assessed on account of the said property under section 167.

(2) If any one person is liable for all or any of the said taxes on account of more properties than one, it shall be competent to the commissioner to charge to such person in one or several bills, as he shall think fit, the several sums payable by him on account of such properties: provided that if such person, by written notice to the commissioner, requests to be furnished with several bills, the commissioner shall comply with such request in respect of all the said taxes for which such person becomes liable after receipt by the commissioner of his said notice.

202. (1) If the amount of tax for which any bill has been presented as aforesaid is not paid into the municipal office within fifteen days from the presentation thereof, the commissioner may cause to be served upon the person liable for the payment of the same a notice of demand in the form of schedule I, or to the like effect.

(2) For every notice of demand which the commissioner causes to be served on any person under this section, a fee of such amount not exceeding one rupee as shall in each case be fixed by the commissioner shall be payable by the said person and shall be included in the costs of recovery.

203. If the person liable for the payment of the said tax do not within fifteen days from the service of the notice of demand pay the sum due, or show sufficient cause for non-payment of the same to the satisfaction of the commissioner, and if no appeal is preferred against the said tax as hereinafter provided, such sum, with all costs of the recovery, may be levied under a warrant in the form of schedule J, or to the like effect, to be issued by the commissioner, by distress and sale of the goods and chattels of the defaulter, or if the defaulter be the occupier of any premises in respect of which a property-tax is due, by distress and sale of any goods and chattels found on the said premises.

204. The goods and chattels of any person liable for the payment of any tax, for levy of which a warrant has been issued as aforesaid, may be distrained wherever the same may be found.

Goods of defaulter may be distrained, wherever found.

205. The officer charged with the execution of a warrant of distress, issued under section 203, shall forthwith make an inventory of the goods and chattels which he seizes under such warrant, and shall at the same time give a written notice, in the form of schedule K, to the person in possession thereof at the time of seizure that the said goods and chattels will be sold as therein mentioned.

Inventory and notice of distress and sale.

206. (1) If the warrant is not in the meantime suspended by the commissioner or discharged, the goods and chattels seized shall, after the expiry of the period named in the notice served under the last preceding section, be sold by order of the commissioner, who shall apply the proceeds or such part thereof as shall be requisite, in discharge of the sum due and of the costs of recovery.

Sale.

(2) The surplus, if any, shall be forthwith credited to the municipal fund, but if the same be claimed by written application to the commissioner within one year from the date of the sale, a refund thereof shall be made to the person in possession of the goods and chattels at the time of the seizure. Any surplus not claimed within one year as aforesaid shall be the property of the corporation.

207. For every distraint made under this Act a fee shall be charged at the rate set forth in schedule L, and the said fee shall be included in the costs of recovery.

Fees for distraints.

208. The commissioner may, in his discretion, remit the whole or any part of any fee chargeable under the last preceding section or under sub-section (2) of section 202.

Fees for cost of recovery may be remitted.

209. (1) If the sum due on account of any property-tax remains unpaid after a bill for the same has been duly pre-

When occupiers may be held liable for payment of property-taxes.

sented to the person primarily liable for the payment thereof, and the said person be not the occupier for the time being of the premises

in respect of which the tax is due, the commissioner may present a bill for the amount to the occupier of the said premises, or, if there are two or more occupiers thereof, may present a bill to each of them for such portion of the sum due as bears to the whole amount due, the same ratio which the rent paid by such occupier bears to the aggregate amount of rent paid by them both or all in respect of the said premises.

(2) If the occupier or any of the occupiers fails with fifteen days from the presentation of any such bill to pay the amount therein claimed, the said amount may be recovered from him in accordance with the foregoing provisions.

(3) No arrear of a property-tax shall be recovered from any occupier under this section, which has remained due for more than one year or which is due on account of any period for which the occupier was not in occupation of the premises on which the tax is assessed.

(4) If any sum is paid by, or recovered from, an occupier under this section, he shall be entitled to credit therefor in account with the person primarily liable for the payment of the same.

210. (1) If the commissioner shall at any time have reason to believe that any person from whom any sum is due on

Summary proceedings may be taken against persons about to leave the city.

account of any property-tax or tax on vehicles and animals, or who would be liable for any sum on account of the tax on vehicles and animals

if the current quarter had come to a close, is about forthwith to remove from the city, the commissioner may direct the immediate payment by such person of the sum so due or about to become due by him and cause a bill for the same to be presented to him.

(2) If, on presentation of such bill, the said person do not forthwith pay the sum due or about to become due by him, the amount shall be leviable by distress and sale in the manner hereinbefore prescribed, except that it shall not be necessary to serve upon the defaulter any notice of demand, and the commissioner's warrant for distress and sale may be issued and executed without any delay.

211. Instead of proceeding against a defaulter by distress and sale as hereinbefore provided, or after a defaulter shall

Defaulters may be sued for arrears, if necessary.

have been so proceeded against unsuccessfully or with only partial success, any sum due or

the balance of any sum due, as the case may be, by such defaulter, on account

of a property-tax or of the tax on vehicles and animals, may be recovered from him by a suit in any court of competent jurisdiction.

212. Property-taxes due under this Act in respect of any building or land shall, subject to the prior payment of the land-revenue, if any, due to Government thereupon, be a first charge upon the said building or land and upon the goods and chattels, if any, found within or upon such building or land and belonging to the person liable for such taxes.

Collection of tolls and town duties how to be effected.

213. (1) Tolls on vehicles entering the city from Salsette and town-duties :

- (a) may be collected under the orders of the commissioner, by municipal officers and servants appointed in this behalf ; or
- (b) if the commissioner thinks fit, may, with the approval of the standing committee, be farmed by him for any period not exceeding one year at a time or be collected by or under the orders of any person, whom the commissioner, with the approval of the standing committee, appoints to be his agent for this purpose.

(2) The said tolls and town-duties shall be collected and refunds of town-duties shall be made at such places, and be managed and controlled in such manner, as the commissioner, with the approval of the standing committee, shall from time to time direct.

214. (1) If any toll payable in respect of a vehicle entering the city from Salsette is not paid on demand, the person authorized under section 213 to collect the same may seize :

Procedure in case of non-payment of toll.

- (a) any part of the contents of the vehicle in respect of which the toll is payable of sufficient value to defray the toll ; or
- (b) if the vehicle is empty, or the contents are of insufficient value to defray the toll, the vehicle itself.

(2) If the toll and the costs, if any, incurred on account of the seizure, remain undischarged for twenty-four hours after the seizure, the case shall be reported to the commissioner, and the commissioner shall forthwith issue a public notice, fixing some convenient time within three days after the date of the seizure for the sale by public auction of the property which has been seized.

(3) If at any time before the sale is commenced in accordance with such public notice, the person in whose possession the property was at the

time it was seized shall pay to the commissioner a sum equal to double the amount of the toll due, together with all the expenses incurred on account of the non-payment of the toll and of the seizure and intended sale, the commissioner shall forthwith release the property seized.

(4) If such payment is not made, the property seized shall be sold by auction in accordance with the public notice and the proceeds shall be devoted to the discharge of the toll and of all expenses incurred on account of the non-payment of the toll and of the seizure and sale. The surplus, if any, shall be forthwith credited to the municipal fund, but if the same be claimed by written application to the commissioner within one year from the date of the sale, a refund thereof shall be made to the person in whose possession the property was at the time of the seizure. Any surplus not claimed within one year as aforesaid shall be the property of the corporation.

215. Every person authorized under section 213 to collect or to refund

Powers of persons authorized to collect and refund town-duties.

town-duties shall have, in respect of the collection of the said duties and of paying refunds and of the confiscation of goods in connection therewith, the same powers as are conferred by any law at the time in force on the Commissioner of Customs of Bombay and the officers subordinate to him in respect of the levy of customs-duties and of the grant of drawbacks and of the confiscation of goods in connection therewith, and shall also have the same privileges and be subject to the same liabilities in respect of anything done by him in or for the purpose of collecting or refunding town-duties, as the said Commissioner of Customs and the officers subordinate to him have or are subject to, under any law at the time in force relating to customs-duties.

216. The commissioner may, with the approval of the standing committee, from time to time write off any sum due on account of any tax or of the costs of recovering any tax, which shall, in his opinion, be irrecoverable.

Writing off of irrecoverable taxes.

APPEALS AGAINST VALUATIONS AND TAXES.

217. (1) Subject to the provisions hereinafter contained, appeals against any rateable value or tax fixed or charged under this Act shall be heard and determined by the Chief Judge of the Small Cause Court.

See 217-ss

Appeals when and to whom to lie.

(2) But no such appeal shall be heard by the said Chief Judge, unless:

(a) it is brought within fifteen days after the accrual of the cause of complaint;

S. 217.—In certain cases the Chief Judge may refer a statement for the decision of the High Court. See S. 2 of Act XII. of 1888.

- (b) in the case of an appeal against a rateable value, a complaint has previously been made to the commissioner under section 163, and such complaint has been disposed of ;
- (c) in the case of an appeal against any amendment made in the assessment-book under section 167 during the official year, a complaint has been made by the person aggrieved within fifteen days after he first received notice of such amendment and his complaint has been disposed of ;
- (d) in the case of an appeal against a tax, or in the case of an appeal made against a rateable value after a bill for any property-tax assessed upon such value has been presented to the appellant, the amount claimed from the appellant has been deposited by him with the commissioner.

Cause of complaint when to be deemed to have accrued.

218. For the purposes of the last preceding section, cause of complaint shall be deemed to have accrued as follows, namely :

- (a) in the case of an appeal against a rateable value, on the day when the complaint made to the commissioner under section 163 against such value is disposed of ;
- (b) in the case of an appeal against any amendment made in the assessment-book, under section 167, during the official year, on the day when the complaint made to the commissioner by the person aggrieved against such amendment is disposed of ;
- (c) in the case of an appeal against a tax, on the day when payment thereof is demanded or when a bill therefor is presented.

Unappealed values and taxes and decisions on appeal to be final.

219. (1) Every rateable value fixed under this Act against which no complaint is made as hereinbefore provided, and

the amount of every sum claimed from any person under this Act on account of any tax, if no appeal therefrom is made as hereinbefore provided, and

the decision of the Chief Judge aforesaid upon any appeal against any such value or tax,
shall be final.

(2) Effect shall be given by the commissioner to every decision of the said Chief Judge on any appeal against any such value or tax.

CHAPTER IX.

DRAINS AND DRAINAGE-WORKS.

Municipal Drains.

220. All drains belonging to the corporation,—which in this Act are referred to as “municipal drains”—shall be under the control of the commissioner.

221. The commissioner shall maintain and keep in repair all municipal drains and, when authorized by the corporation in this behalf, shall construct such new drains as shall from time to time be necessary for effectually draining the city.

222. (1) The commissioner may carry any municipal drain through, across or under any street, or any place laid out as or intended for a street, or under any cellar or vault which may be under any street, and, after giving reasonable notice in writing to the owner or occupier, into, through or under any land whatsoever within the city, or, for the purpose of outfall or distribution of sewage, without the city.

(2) The commissioner may enter upon, and construct any new drain in the place of an existing drain in any land wherein any municipal drain has been already lawfully constructed, or repair or alter any municipal drain so constructed.

(3) In the exercise of any power under this section, as little damage as can be shall be done, and compensation shall be paid by the commissioner to any person who sustains damage by the exercise of such power.

223. (1) Without the written permission of the commissioner, no building, wall or other structure shall be newly erected, and no street or railway shall be constructed over any municipal drain.

(2) If any building, wall or other structure be so erected, or any street or railway be so constructed, the commissioner may, with the approval of the standing committee, remove or otherwise deal with the same, as he shall think fit, and the expenses thereby incurred shall be paid by the person offending.

224. (1) The commissioner may enlarge, arch over or otherwise improve any municipal drain and may discontinue, close up or destroy any such drain which has, in his opinion, become useless or unnecessary:

(2) Provided that the discontinuance, closing up or destruction of any drain shall be so done as to create the least practicable nuisance or inconvenience to any person, and, if by reason of any thing done under this section any person is deprived of the lawful use of any drain, the commissioner shall, as soon as may be, provide for his use some other drain as effectual as the one which has been discontinued, closed up or destroyed.

225. (1) The municipal drains shall be so constructed, maintained and
Cleansing drains. kept as to create the least practicable nuisance, and shall be from time to time properly flushed, cleansed and emptied.

(2) For the purpose of flushing, cleansing and emptying the said drains, the commissioner may, when authorized by the corporation in this behalf, construct or set up such reservoirs, sluices, engines and other works as he shall from time to time deem necessary.

226. (1) Every drain in, alongside or under any street which has been
Maintenance of drains kept up for the benefit of certain premises only. or shall be constructed, whether at the cost of the municipal fund or not, for the sole use and benefit of, or which shall be continued for the sole use and benefit of, any premises adjoining or near to such street, shall be maintained and from time to time repaired, flushed, cleansed and emptied by the owner or occupier of the said premises.

(2) The commissioner may, by written notice, require the owner or occupier of the said premises to repair, flush, cleanse, empty or, with the approval of the standing committee, to take such other order with any such drain as the commissioner shall deem necessary.

Drains of private streets and drainage of premises.

227. The owner of a private street shall be entitled to connect the
Power to connect drains of private streets with municipal drains. drain of such street with a municipal drain, subject to the following conditions, (namely):

- (a) Before commencing to construct such drain, the owner of the street shall submit to the commissioner a plan of the street, bearing the signature of a licensed surveyor in token of its having been made by him or under his supervision, and drawn to such a convenient scale as the commissioner shall require, and there shall be shown on such plan the position, course and dimensions of the proposed drain, with a section or sections thereof, and such other particulars in relation thereto as the commissioner shall deem necessary and require, and no such drain shall be proceeded with without the

approval in writing or contrary to the directions of the commissioner.

(b) The drain of such private street shall, at the expense of the owner of the street, be constructed of such size, material and description and be branched into the municipal drain in such manner and form of communication in all respects, as the commissioner, with the approval of the standing committee, shall direct.

(c) The commissioner may, if he thinks fit, construct such part of such drain and such part of the work necessary for branching the same into the municipal drain as shall be in or under any public street or place vesting in the corporation and, in such case, the expenses incurred by the commissioner shall be paid by the owner of the private street.

228. The owner or occupier of any premises shall be entitled to cause his drain to empty into a municipal drain,

Power of owners and occupiers of premises to drain into municipal drains.

provided that he first obtains the written permission of the commissioner and that he complies with such conditions as the commissioner

prescribes as to the mode in which and the superintendence under which the communications between drains not belonging to the corporation and municipal drains are to be made.

229. No person shall, without complying with the provisions of section 227 or 228, as the case may be, make or cause

Connections with municipal drains not to be made except in conformity with section 227 or 228.

to be made any connection of a drain belonging to himself or to some other person with any municipal drain; and the commissioner may, with the approval of the standing committee,

close, demolish, alter or re-make any such connection made in contravention of this section and the expenses incurred by the commissioner in so doing shall be paid by the owner of the street or the owner or occupier of the premises for the benefit of which the connection was made, or by the person offending.

230. (1) If it shall appear to the commissioner that the only means or the most convenient means, by which the

Rights of owners and occupiers of premises to carry drains through land belonging to other persons.

owner or occupier of any premises can cause his drain to empty into a municipal drain, is by carrying the same into, through or under any land belonging to some person other than

the said owner or occupier, the commissioner, after giving to the owner of the land a reasonable opportunity of stating any objection, may, with the approval of the standing committee, if no objection is raised, or if any objection which is raised appears to him invalid or insufficient, by an order in writing, authorize the said owner or occupier to carry his drain into, through or under the said land in such manner as he shall think fit to allow.

(2) Every such order, bearing the signature of the commissioner, shall be a complete authority to the person in whose favour it is made, or to any agent or person employed by him for this purpose, after giving to the owner of the land reasonable written notice of his intention so to do, to enter upon the said land with assistants and workmen, at any time between sunrise and sunset, and to execute the necessary work.

(3) Subject to all other provisions of this Act, the owner or occupier of any premises, or any agent or person employed by him for this purpose, may, after giving to the owner of any land, wherein a drain has been already lawfully constructed for the drainage of his said premises, reasonable written notice of his intention so to do, enter upon the said land with assistants and workmen, at any time between sunrise and sunset, and construct a new drain in the place of the existing drain or repair or alter any drain so constructed.

(4) In executing any work under this section, as little damage as can be shall be done, and the owner or occupier of premises by whom or in whose behalf the work is done shall :

- (a) cause the work to be executed with the least practicable delay ;
- (b) fill in, re-instate and make good, at his own cost and with the least practicable delay, the ground or portion of any building or other construction, opened, broken up or removed for the purpose of executing the said work ;
- (c) pay compensation to any person who sustains damage by the execution of the said work.

(5) If the owner of any land, into, through or under which a drain has been carried under this section, whilst such land was unbuilt upon, shall, at any time afterwards, desire to erect a building on such land, the commissioner shall, with the approval of the standing committee, by written notice, require the owner or occupier of the premises for the benefit of which such drain was constructed, to close, remove or divert the same in such manner as shall be approved by the said committee, and to fill in, re-instate and make good the land as if the drain had not been carried into, through or under the same : provided that no such requisition shall be made, unless, in the opinion of the standing committee, it is necessary or expedient, in order to admit of the construction of the proposed building or the safe enjoyment thereof, that the drain be closed, removed or diverted.

231. Where any premises are, in the opinion of the commissioner, with-

Commissioner may enforce drainage of undrained premises situate within a hundred feet of a municipal drain.

out sufficient means of effectual drainage and a municipal drain or some place legally set apart for the discharge of drainage, is situated at a distance not exceeding one hundred feet from some part of the said premises, the commissioner

may, by written notice, require the owner or occupier of the said premises :

- (a) to make a drain of such material, size and description and laid at such level and with such fall and outlet as may appear to the commissioner necessary, emptying into such municipal drain or place aforesaid ;
- (b) to provide and set up all such appliances and fittings as may appear to the commissioner necessary for the purposes of gathering and receiving the drainage from, and conveying the same off the said premises and of effectually flushing such drain and every fixture connected therewith ;
- (c) to remove any existing drain, or other appliance or thing used or intended to be used for drainage, which is injurious to health.

232. (1) Where any premises are, in the opinion of the commissioner, without sufficient means of effectual drainage,

Commissioner may enforce drainage of undrained premises not situate within a hundred feet of a municipal drain.

but no municipal drain or such place as aforesaid is situated at a distance not exceeding one hundred feet from some part of the said premises, the commissioner may, by written notice,

require the owner or occupier of the said premises to make a drain emptying into a covered cesspool.

(2) And the commissioner may in like manner require any such drain and, if no suitable cesspool already exists, any such cesspool to be of such materials, size and description, and to be made at such level and with allowance for such fall, as may appear to him to be necessary.

233. (1) Where a drain connecting any premises with a municipal drain

Commissioner may close or limit the use of existing private drains.

is sufficient for the effectual drainage of the said premises and is otherwise unobjectionable, but is not, in the opinion of the commissioner, adapted to the general drainage system of the

city, the commissioner, with the approval of the standing committee, may :

- (a) subject to the provision of sub-section (2), close, discontinue or destroy the said drain and cause any work necessary for that purpose to be done ;
- (b) direct that the said drain shall, from such date as he prescribes in this behalf, be used for sullage, excrementitious matter and polluted water only or for rain-water and unpolluted subsoil water only, and, by written notice, require the owner or occupier of the premises to make a new and entirely distinct drain for rain-water and unpolluted subsoil water or for sullage, excrementitious matter and polluted water, as the case may be.

(2) No drain may be closed, discontinued or destroyed by the commissioner under clause (a), except on condition of his providing another drain as effectual for the drainage of the premises and communicating with any municipal drain which the commissioner thinks fit; and the expenses of the construction of any drain so provided by the commissioner and of any work done under clause (a) shall be paid by the commissioner.

(3) Any requisition made by the commissioner under clause (b) may embrace any detail specified in clause (a) or clause (b) of section 231.

234. (1) It shall not be lawful newly to erect any building, or to re-build any building, or to occupy any building newly erected or rebuilt, unless and until:

New buildings not to be erected without drains.

(a) a drain be constructed, of such size, materials and description, at such level and with such fall, as shall appear to the commissioner to be necessary for the effectual drainage of such building;

(b) there have been provided for and set up in such building and in the premises appurtenant thereto, all such appliances and fittings as may appear to the commissioner to be necessary for the purposes of gathering and receiving the drainage from, and conveying the same off, the said building and the said premises and of effectually flushing the drain of the said building and every fixture connected therewith.

(2) The drain to be constructed as aforesaid shall empty into a municipal drain or into some place legally set apart for the discharge of drainage, situated at a distance not exceeding one hundred feet from such building; but if no such drain or place is within that distance, then such drain shall empty into such cesspool as the commissioner directs.

235. No person shall, except with the permission of the commissioner, pass or cause or permit to be passed any excrementitious matter into any cesspool made or used under section 232 or section 234, or into any drain communicating with any such cesspool.

Excrementitious matter not to be passed into cesspool.

236. Every owner of a drain connected with a municipal drain shall be bound to allow the use of it to others or to admit other persons as joint owners thereof on such terms as may be prescribed under section 238.

Obligation of owners of drains to allow use thereof or joint ownership therein to others.

237. Any person desiring to drain his premises into a municipal drain, through a drain of which he is not an owner, may make a private arrangement with the owner for permitting his use of the drain or may apply to the commissioner for authority to use such drain or to be declared joint owner thereof.

How right of use or joint ownership of a drain may be obtained by a person other than the owner.

238. (1) On receipt of any such application, the commissioner, after giving the owner of the drain a reasonable opportunity of stating any objection thereto, may, with the approval of the standing committee, if no objection is raised or if any objection which is raised appears to him invalid or insufficient, by an order in writing, either authorize the applicant to use the drain or declare him to be a joint owner thereof, on such conditions as to the payment of rent or compensation and as to connecting the drain of the applicant with the drain to which his application refers and as to the respective responsibilities of the parties for maintaining, repairing, flushing, cleaning and emptying the joint drain, or otherwise, as may appear to him equitable.

Commissioner may authorize person other than the owner of a drain to use the same or declare him to be a joint owner thereof.

(2) Every such order bearing the signature of the commissioner shall be a complete authority to the person in whose favour it is made, or to any agent or person employed by him for this purpose, after giving or tendering to the owner of the drain the compensation or rent specified in the said order and otherwise fulfilling, as far as possible, the conditions of the said order, and after giving to the owner of the drain reasonable written notice of his intention so to do, to enter upon the land in which the said drain is situate, with assistants and workmen, at any time between sunrise and sunset, and, subject to all provisions of this Act, to do all such things as may be necessary for :

- (a) connecting the two drains ; or
- (b) renewing, repairing or altering the connection ; or
- (c) discharging any responsibility attaching to the person in whose favour the commissioner's order is made for maintaining, repairing, flushing, cleaning or emptying the joint drain or any part thereof.

(3) In respect of the execution of any work under sub-section (2), the person in whose favour the commissioner's order is made shall be subject to the same restrictions and liabilities which are specified in sub-section (4) of section 230.

239. Whenever it is provided in this chapter that steps shall or may be taken for the effectual drainage of any premises, it shall be competent to the commissioner to require that there shall be one drain for sullage,

Sewage and rainwater drains to be distinct.

excrementitious matter and polluted water and another and an entirely distinct drain for rain-water or unpolluted subsoil water or for both rain-water and unpolluted subsoil water, each emptying into separate municipal drains or other suitable places.

240. Except with the written permission of the commissioner, and in conformity with such conditions as shall be prescribed by the standing committee, either generally or specially, in this behalf, no drain shall be so constructed as to pass beneath any part of a building.

Drains not to pass beneath buildings.

241. No person shall construct a cesspool beneath any part of a building used or intended to be used for human habitation or in which any person may be or may be intended to be employed in any manufacture, trade or business ;

Provisions as to position of cesspools.

nor, within twenty feet of any well, spring, or tank, nor, except with the written permission of the commissioner, within twenty feet of any cistern, main, pipe or other work containing or carrying water for drinking or other domestic purpose, or for manufacturing drinks for the use of man.

242. All drains, ventilation-shafts and pipes and all appliances and fittings connected with drainage-works constructed, erected or set up at the charge of the municipal fund upon premises not belonging to the corporation, whether before or after the passing of this Act, and whether for the use of the owner or occupier of the said premises or not, shall, unless the corporation has otherwise determined or shall at any time otherwise determine, vest and be deemed to have always vested, in the corporation.

Right of corporation to drains, &c., constructed, &c., at charge of municipal fund on premises not belonging to the corporation.

243. (1) Every drain and cesspool, whether belonging to the corporation or to any other person, shall be provided with proper traps and coverings and with proper means of ventilation.

All drains and cesspools to be properly covered and ventilated.

(2) The commissioner may, by written notice, require the owner of any drain or cesspool not belonging to the corporation to provide and apply to the said drain or cesspool such trap and covering and such means of ventilation as would be provided and applied if such drain or cesspool belonged to the corporation.

244. (1) For the purpose of ventilating any drain or cesspool, whether belonging to the corporation or to any other person, the commissioner may erect upon any premises or affix to the outside of any building, or to any tree, any such shaft or pipe as shall appear to the commissioner necessary :

Affixing of pipes for ventilation of drains, &c.

(2) Provided that any shaft or pipe so erected or affixed shall :

- (a) be carried at least ten feet higher than any sky-light or window situated within a distance of twenty feet therefrom ;
- (b) if the same be affixed to a wall supporting the eave of a roof, be carried at least five feet higher than such eave ;
- (c) be erected or affixed so as to create the least practicable nuisance or inconvenience to the inhabitants of the neighbourhood ;
- (d) be removed by the commissioner to some other place, if at any time the owner of the premises, building or tree upon or to which the same has been erected or affixed, is desirous of effecting any change in his property, which either cannot be carried out, or cannot, without unreasonable inconvenience, be carried out, unless the shaft or pipe is removed.

(3) If the commissioner declines to remove a shaft or pipe under clause (d), the owner of the premises, building or tree, upon or to which the same has been erected or affixed, may apply to the Chief Judge of the Small Cause Court ; and the said Chief Judge may, after such inquiry as he thinks fit to make, direct the commissioner to remove the shaft or pipe, and it shall be incumbent on the commissioner to obey such order.

Disposal of Sewage.

245. The commissioner may cause all or any municipal drains to empty into the sea or other place, whether within or without the city, and dispose of the sewage at any place, whether within or without the city, and in any manner, which he shall deem suitable for such purpose ; Provided that—

Appointment of places for emptying of drains and disposal of sewage.

- (a) the commissioner shall not cause any municipal drain to empty into any place into which a municipal drain has not heretofore emptied or dispose of sewage at any place or in any manner at or in which sewage has not heretofore been disposed of, without the sanction of the corporation ;
- (b) any power conferred by this section shall be exercised in such manner as to create the least practicable nuisance ;
- (c) no municipal drain shall be made to empty into any place, and no sewage shall be disposed of at any place or in any manner which Government shall think fit to disallow.

246. (1) For the purpose of receiving, storing, disinfecting, distributing or otherwise disposing of sewage, the commissioner may, when authorized by the corporation in this behalf :

Provision of means for disposal of sewage.

- (a) construct any work within or without the city ;
- (b) purchase, or take on lease any land, building, engine, material or apparatus, either within or without the city ;
- (c) enter into an arrangement with any person, for any period not exceeding twenty years, for the removal or disposal of sewage :

(2) Provided that any power conferred by this section shall be exercised in such manner as to cause the least practicable nuisance.

Water-closets, Privies, Urinals, &c.

New buildings to be supplied with sufficient privy accommodation.

247. It shall not be lawful newly to erect any building or to rebuild any building without a sufficient water-closet, or privy and urinal.

248. (1) If it appears to the commissioner that any premises are without a water-closet or privy or urinal, or that the existing water-closet or privy or urinal available for the occupiers of any premises is insufficient, inefficient or, for sanitary reasons, objectionable, the commissioner shall, by written notice, require the owner of such premises to provide a water-closet, privy or urinal or an additional water-closet, privy or urinal, as the case may be, to his satisfaction :

(2) Provided that where a water-closet, privy or urinal has been and is used in common by the occupiers of two or more premises, or, if in the opinion of the commissioner, a water-closet, privy or urinal may be so used and is sufficient for all the occupiers of the two or more premises using or intending to use the same, he need not require a separate water-closet or privy or urinal to be provided on or for each of the said premises.

249. Where it appears to the commissioner that any premises are, or are intended to be used as a market, railway-station, dock, wharf, or other place of public resort, or as a place in which persons exceeding twenty in number are employed in any manufacture, trade or business or as workmen or labourers, the commissioner may, by written notice, require the owner or occupier of the said premises to construct a sufficient number of water-closets or latrines or privies and urinals for the separate use of each sex.

Provisions as to privies.

250. (1) The owner or occupier of any premises on which there is a privy shall :

- (a) have between such privy and any building or place used or intended to be used for human habitation, or in which any person may be or may be intended to be employed in any manufacture, trade or business, an air-space of at least three feet in width and open to the sky ;

- (b) have such privy shut off by a sufficient roof and wall, or fence, from the view of persons dwelling in the neighbourhood or passing by ;
- (c) unless and except for such period as he shall be permitted by the commissioner, under the power next hereinafter conferred, to continue any existing door or trap-door, close up and not keep any door or trap-door in such privy opening on to a street :

(2) Provided that the commissioner may permit the continuance for such period as he may think fit of any existing door or trap-door in a privy opening on to a street, if a nuisance is not thereby created.

(3) Provided also that clause (a) shall not be deemed to apply to any privy in existence when this Act comes into force, unless :

- (d) there is space available on the premises of the owner or occupier for the erection of a new privy conformably to the said clause ; and
- (e) the existing privy can be removed and a new one erected as aforesaid, without destroying any portion of a permanent building other than the existing privy.

251. The owner or occupier of any premises on which there is a water-closet shall :

Provisions as to water-closets.

- (a) have such water-closet divided off from any part of a building or place used or intended to be used for human habitation, or in which any person may be or may be intended to be employed in any manufacture, trade or business, by such means as the commissioner shall deem sufficient ;
- (b) have such water-closet in such a position that one of its sides at the least shall be an external wall ;
- (c) have the seat of such water-closet placed against an external wall ;
- (d) cause such water-closet to be provided with such means of constant ventilation as the commissioner shall deem adequate, by a window or other aperture in one of the walls of such water-closet opening directly into the external air, or by an air-shaft or by some other suitable method or appliance :
- (e) have such water-closet supplied by a supply-cistern and flushing apparatus and fitted with a soil-pan or receiver and such other appliances of such materials, size and description as the commissioner shall deem necessary : provided always that a cistern from which a water-closet is supplied shall not be used, or be connected with another cistern which is used, for supplying water for any other purpose.

252. The commissioner shall provide and maintain, in proper and convenient situations and on sites vesting in the corporation, water-closets, latrines, privies and urinals and other similar conveniences for public accommodation.

Public necessities.

Inspection.

253. All drains, ventilation-shafts and pipes, cesspools, house-gullies, water-closets, privies, latrines and urinals which do not belong to the corporation or which have been constructed, erected or set up at the charge of the municipal fund on premises not belonging to the corporation, for the use or benefit of the owner or occupier of the said premises, shall be open to inspection and examination by the commissioner.

Drains, &c., not belonging to the corporation to be subject to inspection and examination.

254. For the purpose of such inspection and examination, the commissioner may cause the ground or any portion of any drain or other work exterior to a building, or, with the approval of the standing committee, any portion of a building, which he shall think fit, to be opened, broken up or removed: Provided that in the prosecution of any such inspection and examination, as little damage as can be, shall be done.

Power to open ground, &c., for purposes of such inspection and examination.

255. If upon any such inspection and examination as aforesaid, it shall be found that the drain, ventilation-shaft or pipe, cesspool, house-gully, water-closet, privy, latrine or urinal examined is in proper order and condition, and that none of the provisions of this chapter has been contravened in respect of the construction or maintenance thereof, and that no encroachment has been made thereupon, the ground or portion of any building, drain or other work, if any, opened, broken up or removed for the purpose of such inspection and examination shall be filled in, re-instated and made good by the commissioner.

When the expenses of inspection and examination are to be paid by the commissioner.

256. But if it shall be found that any drain, ventilation-shaft or pipe, cesspool, house-gully, water-closet, privy, latrine or urinal so examined is not in good order or condition, or has been repaired, changed, altered or encroached upon, or except when the same has been constructed by or under the order of the commissioner, if it has been constructed in contravention of any of the provisions of this chapter or of any enactment at the time in force,

When the expenses of inspection and examination are to be paid by the owner.

the expenses of the inspection and examination shall be paid by the owner of the premises, and the said owner shall fill in, re-instate and make good the ground, or portion of any building, drain or other work opened,

broken up or removed for the purpose of such inspection and examination, at his own cost.

257. (1) When the result of the inspection and examination is as described in the last preceding section, the commissioner may require repairs, &c., to be made. the owner of the premises in which the drain, ventilation-shaft or pipe, cesspool, house-gully, water-closet, privy, or urinal is situate :

- (a) to close or remove the same or any encroachment thereupon ; or
- (b) to renew, repair, cover or recover, trap, ventilate, pave and pitch, flush, cleanse or take such other order with the same as he shall think fit to direct, and to fill in, re-instate and make good the ground or portion of any building, drain or other work opened, broken up or removed for the purpose of the inspection and examination aforesaid.

(2) In any such case as aforesaid, the commissioner may forthwith and without notice, stop up or demolish any drain by which sullage, excrementitious matter or polluted water is carried through, from, into, or upon any premises in contravention of any of the provisions of this chapter : and all expenses incurred by the commissioner in so doing shall be paid by the owner of the premises.

General Provisions.

Prohibition of acts contravening the provisions of this chapter or done without sanction.

258. No person shall :

- (a) in contravention of any of the provisions of this chapter, or of any notice issued or direction given under this chapter or without the written permission of the commissioner, in any way alter the fixing, disposition or position of, or construct, erect, set up, renew, rebuild, remove, obstruct, stop up, destroy or change any drain, ventilation-shaft or pipe, cesspool, water-closet, privy, latrine, or urinal, or any trap, covering or other fitting or appliance connected therewith ;
- (b) without the written permission of the commissioner, renew, rebuild, or unstop any drain, ventilation-shaft or pipe, cesspool, water-closet, privy, latrine or urinal, or any fitting or appliance, which has been or has been ordered to be discontinued, demolished or stopped up under any of the provisions of this chapter ;
- (c) without the written permission of the commissioner, make any encroachment upon or in any way injure or cause or permit

to be injured, any drain, cesspool, house-gully, water-closet, privy, latrine or urinal ;

- (d) drop, pass or place, or cause or permit to be dropped, passed or placed into or in any drain, any brick, stone, earth, ashes, or any substance or matter by which or by reason of the amount of which such drain is likely to be obstructed ;
- (e) pass, or permit or cause to be passed into any drain provided for a particular purpose, any matter or liquid for the conveyance of which such drain has not been provided ;
- (f) cause or suffer to be discharged into any drain from any factory, bakehouse, distillery, workshop or workplace or from any building or place in which steam, water or mechanical power is employed, any hot water, steam, fumes, or any liquid which would prejudicially affect the drain or the disposal by sale or otherwise of the sewage conveyed along the drain or which would, from its temperature or otherwise, be likely to create a nuisance.

259. (1) On the written request of any person who is required under

When materials and work may be supplied and done under this chapter for any person by the commissioner.

any of the provisions of this chapter to supply any materials or fittings or to do any work, the commissioner may, in such person's behalf, supply the necessary materials or fittings, or cause the necessary work to be done, but he shall not do so in any case to which the provisions of section 493 or 495 will not apply, unless a deposit is first of all made by the said person of a sum which will, in the opinion of the commissioner, suffice to cover the cost of the said materials, fittings and work.

(2) The commissioner shall not permit any work which any person is required to do under any of the provisions of this chapter to be done except through the agency of a licensed plumber.

260. (1) The commissioner may, if he thinks fit, cause any work

Commissioner may execute certain works under this chapter without allowing option to persons concerned of executing the same.

described in sections 230, 231, 238, 256 or 257 to be executed by municipal or other agency under his own orders, without first of all giving the person by whom the same would otherwise have to be executed the option of doing the same.

(2) The expenses of any work so done shall be paid by the person

Expenses in such cases by whom to be paid.

aforesaid, unless the corporation shall, by a general or special order or resolution, sanction, as they are hereby empowered to sanction, the execution of such work at the charge of the municipal fund.

CHAPTER X.

WATER-SUPPLY.

Construction and maintenance of municipal water-works.

261. For the purpose of providing the city with a supply of water proper and sufficient for public and private purposes, the commissioner, when authorized by the corporation in this behalf, may :

General powers for supplying the city with water.

- (a) construct and maintain water-works, either within or without the city, and do any other necessary acts ;
- (b) purchase or take on lease any water-work or any water or right to store, or to take and convey water, either within or without the city ;
- (c) enter into an arrangement with any person for a supply of water.

262. The commissioner shall manage all water-works belonging to the corporation—all which water-works are in this Act referred to as “municipal water-works”—and maintain the same in good repair and efficient condition, and shall cause all such alterations and extensions to be from time to time made in the said water-works as shall be necessary or expedient for improving the said works.

Municipal water-works to be managed and kept in repair by the commissioner.

263. (1) The commissioner and any person appointed by Government under section 264 in this behalf, may, for the purpose of inspecting or repairing or executing any work in, upon or in connection with any municipal water-work, at all reasonable times :

Power of access to municipal water-works.

- (a) enter upon and pass through any land, within or without the city, adjacent to or in the vicinity of such water-work, in whomsoever such land may vest ;
- (b) convey into and through any such land all necessary materials, tools and implements.

(2) In the exercise of any power conferred by this section, as little damage as can be shall be done, and compensation for any damage which may be done in the exercise of any of the said powers shall be paid by the commissioner, or, if any person appointed under section 264 by Government has caused the damage, by Government.

264. Any person appointed by Government in this behalf shall at all reasonable times have liberty to enter upon and inspect any municipal water-work.

Inspection of municipal water-works by persons appointed by Government.

265. The commissioner shall have the same powers and be subject to the same restrictions for carrying, renewing and repairing water-mains, pipes and ducts within or without the city as he has and is subject to under the provisions hereinbefore contained, for carrying, renewing and repairing drains within the city.

266. The commissioner shall cause fire-hydrants and all necessary works, machinery and assistance for supplying water in case of fire to be provided and maintained; and shall have painted or marked on the buildings and walls or in some other conspicuous manner, within the streets, words or marks near to such hydrants to denote the situation thereof, and shall cause a hydrant-key to be deposited at each place within the city where a municipal fire-engine is kept, and do such other things for the purpose aforesaid as he shall deem expedient.

267. (1) Except with the sanction of the corporation and, in the case of the Vehár water-works, of Government, or, for the purposes of section 262, under the authority of the commissioner, no person shall :

- (a) erect any building for any purpose whatever within the limits of the water-shed of any lake or reservoir from which a supply of water is derived for any municipal water-work ;
- (b) extend, alter or apply to any purpose different to that to which the same has been heretofore applied, any building already existing within the said limits ;
- (c) carry on, within the said limits, any operation of manufacture, trade or agriculture in any manner, or do any act whatsoever, whereby injury may arise to any such lake or reservoir or to any portion thereof, or whereby the water of any such lake, tank or reservoir may be fouled or rendered less wholesome.

(2) The limits of the water-shed of the Vehár lake shall, for the purposes of this section, be deemed to be the limits defined in a plan marked "B," authenticated by the signatures of the Governor and Members of Council, and deposited in the office of the Secretary to the Government of Bombay.

268. (1) Without the written permission of the Commissioner, no building, wall or other structure shall be newly erected and no street or railway shall be constructed over any municipal water-main.

(2) If any building, wall or other structure be so erected or any street or railway be so constructed, the commissioner may, with the approval of the

standing committee, cause the same to be removed or otherwise dealt with as to him shall appear fit, and the expenses thereby incurred shall be paid by the person offending.

Public gratuitous water-supply.

269. (1) All existing public drinking-fountains, tanks, reservoirs, cisterns, pumps, wells, ducts, and works for the supply of water for the gratuitous use of the inhabitants of the city shall vest in the corporation and be under the control of the commissioner.

Vesting of public drinking-fountains, &c., in the corporation.

(2) The commissioner may maintain the said works and provide them with water, and, when authorized by the corporation in this behalf, may construct any other such works for supplying water for the gratuitous use of the inhabitants of the city :

(3) Provided that water carried away by any of the inhabitants from any such work shall be taken only for his private use and not for sale, and shall not, except with the written permission of the commissioner, be carried away in a cask, cart, pakhál or masak.

(4) The commissioner may temporarily, and, with the approval of the corporation, permanently close any of the said works, either entirely or partially.

(5) In case any such work is permanently closed, either entirely or partially, by the commissioner, the site thereof, or of the portion thereof which is so closed, and the materials of the same may be disposed of as the property of the corporation : provided that if any such work, which is permanently closed, either entirely or partially, was a gift to the public by some private person, the said site and materials or the proceeds of the sale thereof shall, unless by reason of their value being insignificant or for other sufficient reason, the corporation think fit to otherwise direct, be applied to or towards some local work of public utility bearing the name of such person or to or towards any such local work, which shall be approved by the corporation and by the heirs or other representatives, if any, of the said person.

270. (1) The commissioner may assign and set apart each of the said works and the water therein for use by the public for such purpose only as he shall think fit, and shall cause to be indicated by a notice affixed on a conspicuous spot on or near each such work, the purpose for which the same is so assigned and set apart.

Public drinking-fountains, &c., may be set apart for particular purposes.

(2) No person shall make use of any such work or of any water therein for any purpose other than the purpose for which the same has been so assigned or set apart.

Private water-supply.

271. (1) Communication-pipes for conveying to any premises a private supply of water from a water-main or other municipal water-work shall not ordinarily be connected with the main or other water-work except on the written application or with the written assent of the owner of the premises, or of the person primarily liable for the payment of property-taxes on the said premises.

(2) But if it shall appear to the commissioner that any premises, situate within any portion of the city in which a public notice has been given by the commissioner under clause (b) of section 141, are without a proper supply of pure water, the commissioner shall, by written notice, require the owner of the said premises, or the person primarily liable for the payment of property-taxes thereon, to obtain a supply from a municipal water-work adequate to the requirements of the persons usually occupying or employed upon the said premises, and to provide communication-pipes and do all such works as may be necessary for that purpose.

272. Communication-pipes and all fittings and works necessary for making a connection with any municipal water-work or for conveying a private supply of water from any municipal water-work into any premises shall be procured and executed, subject to the inspection and to the satisfaction of the commissioner, at the cost of the person who obtains the supply.

273. No communication-pipe shall be laid, except with the written permission of the commissioner, and no connection with any municipal water-work shall be made except by a municipal officer or servant empowered by the commissioner in this behalf, nor until such municipal officer as the commissioner appoints in this behalf shall have certified that the communication-pipes and all necessary fittings and works have been laid, applied and executed in a satisfactory manner.

274. (1) The commissioner may, whenever it shall appear to him to be necessary, by written notice require that any premises furnished with a private water-supply from any municipal water-work, shall, within a reasonable period which shall be prescribed in the said notice, be provided with a storage-cistern of such size, material, quality and description and with such fittings and placed in such position as he thinks fit.

(2) The commissioner shall also from time to time prescribe the size, material, quality, description and position of the pipes, taps, cocks and other fittings to be employed for the purposes of any connection with, or of any communication from, any municipal water-work, and no such connection or communication shall be made by any person otherwise than as so prescribed.

275. It shall be incumbent on the owner or occupier of any premises to which a private water-supply is furnished from any municipal water-work, to keep in efficient repair every pipe conveying water from the said water-work to such premises and every meter for measuring water, not being a municipal meter, and every tap, cock or other fitting and every storage-cistern in or connected with any such pipe, so as effectually to prevent the water from running to waste.

Communication-pipes, &c., to be kept in efficient repair by owner or occupier of premises.

276. (1) Where water is supplied by measurement, the commissioner may either provide a meter and charge the consumer for the same such rent as shall from time to time be prescribed in this behalf by the standing committee, or may permit the consumer to provide a meter of his own of such size, material and description as the commissioner shall approve for this purpose.

Provision of meters when water is supplied by measurement.

(2) The commissioner shall at all times keep all meters and other instruments for measuring water, let by him for hire to any person, in proper order for correctly registering the supply of water, and in default of his so doing, such person shall not be liable to pay rent for the same during such time as such default continues.

277. Where water is supplied by measurement, the register of the meter or other instrument for measuring water shall be *prima facie* evidence of the quantity consumed.

Register of meter to be evidence.

Inspection.

278. (1) The commissioner may make an inspection of any premises, to which a private water-supply is furnished by the corporation in order:

Commissioner, &c., may inspect premises in order to examine meter, communication-pipes, &c.

- (a) to remove, test, examine and replace any meter for measuring water; or
- (b) to examine the communication-pipes, and the taps, cocks and other fittings thereof and the storage-cisterns connected therewith; or
- (c) to see if there be any waste or misuse of water.

(2) The commissioner may, by written notice, require the owner or occupier of the premises to remedy any defect which shall be found to exist in any such meter, not being a municipal meter let to him for hire, or in any such communication-pipe, tap, cock or other fitting or cistern.

Cutting off private water-supply.

279. (1) The commissioner may, with the sanction of the standing committee, cut off the connection between any municipal water-work and any premises to which a private water-supply is furnished by the corporation or turn off the water from such premises in any of the following cases, namely :

- (a) in default of payment of any instalment of water-tax or of any sum due for water within fifteen days after a bill for such tax or sum has been duly presented ;
- (b) if the owner or occupier of the premises neglects, within the period prescribed in this behalf in any notice given under sub-section (1) of section 274, to comply with any requisition made to him by the commissioner regarding the provision of a storage cistern ;
- (c) if the owner or occupier of the premises fails, within the period prescribed in this behalf in any notice given under sub-section (2) of section 278, to put any such cistern or any pipe conveying water from any municipal water-work or any tap, cock, or other fitting thereof into good repair, so as effectually to prevent the water from running to waste ;
- (d) if, after receipt of a written notice from the commissioner requiring him to refrain from so doing, the owner or occupier of the premises continues :
 - (i) to use the water, or to permit the same to be used in contravention of any by-law made under this Act or of any condition prescribed under sub-section (2) of section 169 ;
 - (ii) when payment for the water is not made by measurement, to permit any person not residing on premises in respect of which water-tax is paid, to carry away from such owner's or occupier's premises water derived from the municipal water-work ;
- (e) if the owner or occupier of the premises wilfully or negligently injures or damages his meter or any pipe conveying water from any municipal water-work.

(2) The expense of cutting off the connection or of turning off the water in any such case as aforesaid shall be paid by the owner or occupier of the premises.

280. No person to whom water is supplied by measurement or on payment of a fixed periodical sum shall contravene any condition prescribed under subsection (2) of section 169 for the use of such water or permit any such condition to be contravened.

Conditions as to use of water not to be contravened.

281. No water-pipe shall be laid in a drain or on the surface of an open channel or house-gully or within twenty feet of a cesspool or in any position where the pipe is likely to be injured or the water therein polluted ; and no well or tank and, except with the consent of the commissioner, no cistern shall be constructed within twenty feet of a cesspool.

Water-pipes, &c., not to be placed where water will be polluted.

282. (1) No person shall fraudulently dispose of any water supplied to him by the corporation.

Prohibition of fraudulent and unauthorized use of water.

(2) No person to whom a private supply of water is furnished by the corporation shall, except when the water supplied is charged for by measurement, permit any person who does not reside on premises in respect of which water-tax is paid, to carry away water from the premises to which it is supplied.

(3) No person, who does not reside on premises in respect of which water-tax is paid, shall carry away water from any premises to which a private supply is furnished by the corporation, unless, in any case in which such supply is charged for by measurement, he does so with the permission of the person to whom such supply is furnished.

283. (1) No person shall fraudulently :

Prohibition of fraud in respect of meters.

(a) alter the index to any meter or prevent any meter from duly registering the quantity of water supplied ;

(b) abstract or use water before it has been registered by a meter set up for the purpose of measuring the same.

(2) The existence of artificial means, under the control of the consumer, for causing any such alteration, prevention, abstraction or use, shall be evidence that the consumer has fraudulently effected the same.

General Provisions.

284. No person shall wilfully or negligently :

Prohibition of wilful or neglectful acts relating to water-works.

(a) injure or suffer to be injured any meter belonging to the corporation or any of the fittings of any such meter :

(b) break, injure or open any lock, cock, valve, pipe, work or engine appertaining to any municipal water-work :

- (c) flush or draw off the water from any such water-work, thereby causing such water to be wasted ;
- (d) do any act whereby the water in or derived from any municipal water-work shall be wasted ;
- (e) obstruct, divert or in any way injure or alter any water-main or duct.

Compensation to be payable by offenders against section 283 or 284.

285. Compensation shall be paid by the offender for any damage which the corporation sustains by reason of any contravention of section 283 or section 284.

286. If it shall be shown that an offence against some provision of this chapter or against some by-law made under this Act at the time in force relating to water-supply, has occurred on any premises to which a private supply of water is furnished by the

Occupier of premises to be primarily liable for certain offences against this chapter.

corporation, it shall be presumed, until the contrary is proved, that such offence has been committed by the occupier of the said premises.

287. (1) On the written request of any person who is required under any of the provisions of this chapter to supply any materials or fittings or to do any work, the commissioner may, in such person's behalf, supply the necessary materials or fittings, or

When materials and work may be supplied and done under this chapter for any person by the commissioner.

cause the necessary work to be done, but he shall not do so in any case to which the provisions of section 493 or 495 will not apply, unless a deposit is first of all made by the said person of a sum which will, in the opinion of the commissioner, suffice to cover the cost of the said materials, fittings and work.

(2) The commissioner shall not permit any work, which any person is required to do under any of the provisions of this chapter, to be done except through the agency of a licensed plumber, and any person who causes or allows communication-pipes or any fittings or work necessary for conveying a private supply of water from a municipal water-work into any premises to be laid, applied or executed by any person other than a licensed plumber shall not be entitled to demand a connection with the municipal water-work.

288. The commissioner may supply water from a municipal water-work to any local authority or person without the city on such terms as to payment and as to the period and conditions of supply as shall be,

Power to supply water without the city.

either generally or specially, approved by the corporation.

CHAPTER XI.

REGULATION OF STREETS.

Construction, maintenance and improvement of public streets.

289. (1) All streets within the city, being or which at any time become public streets, and the pavements, stones and other materials thereof shall vest in the corporation and be under the control of the commissioner.

Vesting of public streets in the corporation.

(2) The commissioner shall from time to time cause all such streets to be levelled, metalled or paved, channelled, altered and repaired, as occasion shall require; he may also from time to time widen, extend or otherwise improve any such street or cause the soil thereof to be raised, lowered or altered, and may place and keep in repair fences and posts for the safety of foot-passengers: provided that no widening, extension or other improvement of a public street, the aggregate cost of which will exceed five thousand rupees, shall be undertaken by the commissioner unless or until such undertaking has been authorized by the corporation.

Powers of commissioner in respect of public streets.

(3) With the sanction of the corporation, the commissioner may permanently close the whole or any part of a public street: provided that such sanction of the corporation shall not be given, unless one month at least before the meeting at which the matter is decided, a notice signed by the commissioner has been put up in the street or part of a street which it is proposed to close, informing the residents of the said proposal, nor until the objections to the said proposal, if any, made in writing at any time before the day of the said meeting, have been received and considered by the corporation.

290. Whenever any public street, or part of a public street, is permanently closed under section 289, the site of such street or of the portion thereof which has been closed, may be disposed of as land vesting in the corporation.

Disposal of land forming site of closed street.

291. The commissioner, when authorized by the corporation in this behalf, may at any time:

Power to make new public streets.

(a) lay out and make a new public street;

(b) agree with any person for the making of a street for public use through the land of such person, either entirely at the expense of such person or partly at the expense of such person and partly at the expense of the corporation and that such street shall become, on completion, a public street.

292. Nothing in sub-sections (1) and (3) of section 289 or in the two last preceding sections shall be deemed to affect the provisions of sections 37 and 38 of the Bombay Port Trust Act, 1879.

Saving of provisions of sections 37 and 38, Bombay Act VI. of 1879.

293. (1) Permission shall not be granted to any person to lay or work upon any public street, any tramway or railway or the like, by any municipal authority other than the corporation, and no such permission shall have validity unless and until it is confirmed by Government.

Permission to lay tramways or railways on public streets to need the sanction of the corporation and confirmation by Government.

(2) Nothing in this section shall be deemed to affect the provisions of the Bombay Tramways Act, 1874.

294. No new public street made under section 291 shall be less than forty feet in width, if such street be made for carriage traffic, or twenty feet, if such street be made for foot traffic only, and no steps and, except with the written permission of the commissioner under section 310, no other projection shall extend on to any such street.

Minimum width of new public streets.

295. The commissioner, when authorized by the corporation in this behalf, may agree :

Power to construct or adopt public bridges, &c., over or under railways, &c.

- (a) with any person to adopt and maintain any existing or projected bridge, viaduct, or arch and the approaches thereto, and may accordingly adopt and maintain such bridge, viaduct or arch and approaches as parts of public streets, or as property vesting in the corporation ; or
- (b) for the construction or alteration of any such bridge, viaduct or arch or for the purchase or acquisition of any adjoining land required for the foundation and support thereof or for the approaches thereto, either entirely at the expense of such person or partly at the expense of such person and partly at the expense of the corporation.

296. (1) The commissioner may, subject to the provisions of sections 90, 91 and 92 :

Power to acquire premises for improvement of public streets.

- (a) acquire any land required for the purpose of opening, widening, extending, or otherwise improving any public street or of making any new public street, and the buildings, if any, standing upon such land ;
- (b) acquire, in addition to the said land and the buildings, if any, standing thereupon, all such land, with the buildings, if any,

standing thereupon, as it shall seem expedient for the corporation to acquire outside of the regular line, or of the intended regular line, of such street ;

(c) lease, sell or otherwise dispose of any land or building purchased under clause (b).

(2) Any conveyance of land or of a building under clause (c) may comprise such conditions as the commissioner thinks fit, as to the removal of the existing building, the description of new building to be erected, the period within which such new building shall be completed and other such matters.

Preservation of regular line in public streets.

297. (1) The commissioner shall prescribe a line on each side of any public street within which, except under the provisions of section 310, no portion of any building abutting on the said street shall, after such line has been prescribed, be constructed.

Prescribing the regular line of a street.

(2) A line so prescribed shall be called "the regular line of the street."

298. (1) If any part of a building abutting on a public street is within the regular line of such street, the commissioner may, whenever it is proposed :

Setting back buildings to regular line of the street.

(a) to rebuild such building or to take down such building to an extent exceeding one-half thereof above the ground-level, such half to be measured in cubic feet ; or

(b) to remove, re-construct, or make any addition to any portion of such building which is within the regular line of the street ;

in any order which he issues, under section 345 or 346, concerning the re-building, alteration or repair of such building, require such building to be set back to the regular line of the street.

(2) When any building, or any part thereof within the regular line of a public street, falls down, or is burnt down or is taken down, whether under the provisions of section 351 or 354, or otherwise, the commissioner may at once take possession, on behalf of the corporation, of the portion of land within the regular line of the street theretofore occupied by the said building, and, if necessary, clear the same.

(3) Land acquired under this section shall thenceforward be deemed a part of the public street and shall vest, as such, in the corporation.

299. (1) If any land, not vesting in the corporation, whether open or enclosed, lies within the regular line of a public street, and is not occupied by a building, or if a platform, verandah, step or some other structure external to a building abutting on a

Acquisition of open land or of land occupied by platforms, &c., within the regular line of a street.

public street, or a portion of a platform, verandah, step or other such structure, is within the regular line of such street,

the commissioner may, after giving to the owner of the land or building not less than seven clear days' written notice of his intention so to do, take possession, on behalf of the corporation, of the said land, with its enclosing wall, hedge or fence, if any, or of the said platform, verandah, step, or other such structure as aforesaid, or of the portion of the said platform, verandah, step or other such structure as aforesaid which is within the regular line of the street, and, if necessary, clear the same, and the land so acquired shall thenceforward be deemed a part of the public street :

(2) Provided that when the land or building is vested in Her Majesty or in any corporation constituted by royal charter or by an Act of Parliament or of the Governor General of India in Council or of the Governor in Council, possession shall not be taken as aforesaid, without the previous sanction of Government.

300. (1) If any building which abuts on a public street is in rear of the regular line of such street, the commissioner may, whenever it is proposed :

(a) to re-build such building ; or

(b) to alter or repair such building in any manner that will involve the removal or re-erection of such building, or of the portion thereof which abuts on the said street, to an extent exceeding one-half of such building or portion thereof, above the ground-level, such half to be measured in cubic feet,

in any order which he issues, under section 345 or 346, concerning the re-building, alteration or repair of such building, permit or, with the approval of the standing committee, require such building to be set forward to the regular line of the street.

(2) For the purposes of this section, a wall separating any premises from a public street shall be deemed to be a building ; and it shall be deemed to be a sufficient compliance with a permission or requisition to set forward a building to the regular line of a street if a wall of such materials and dimensions as are approved by the commissioner is erected along the said line.

301. (1) Compensation shall be paid by the commissioner to the owner of any building or land acquired for a public street under the three last sections, for the value of the said land and for any loss, damage or expense sustained by such owner in consequence of the order made by the commissioner under either of the said sections.

S. 299 (2).—In this sub-section the words "Her Majesty" are printed in place of the words "the Secretary of State for India in Council", being substituted therefor by S. 5 of Bom. Act IV. of 1888.

(2) If, in consequence of any order to set forward a building made by the commissioner under the last preceding section, the owner of such building sustains any loss or damage, compensation shall be paid to him by the commissioner for such loss or damage.

(3) If the additional land which will be included in the premises of any person required or permitted under the last preceding section to set forward a building, belongs to the corporation, the order or permission of the commissioner to set forward the building shall be a sufficient conveyance to the said owner of the said land; and the terms and conditions of the conveyance shall be set forth in the said order or permission.

(4) If, when the commissioner requires a building to be set forward, the owner of the building is dissatisfied with any of the terms or conditions of the conveyance, the commissioner shall, upon the application of the said owner at any time within fifteen days after the said terms and conditions are communicated to him, refer the case for the determination of the Chief Judge of the Small Cause Court, whose decision thereupon shall be conclusive.

Provisions concerning private streets.

302. Every person who intends to make or lay out a new private street

Notice of intention to lay out new private street to be given to commissioner.

shall give written notice of his intention to the commissioner, and shall, along with such notice, submit plans and sections, showing the intended level, direction and width and means of drainage of such street and the height and means of drainage of the buildings to be erected on each side thereof.

303. (1) The level, direction, width and means of drainage of every

Level, &c., of new private streets and of the buildings on either side thereof to be determined by commissioner.

new private street and the height and means of drainage of the buildings to be erected on each side thereof shall be fixed and determined by the commissioner, with the approval of the standing committee.

(2) But if within thirty days after the receipt by the commissioner of any notice under the last preceding section, the disapproval by the commissioner of the level, direction, width or means of drainage of the proposed new street or of the proposed height or means of drainage of the buildings to be erected on each side thereof, shall not be communicated to the person who gave the notice under the last preceding section, the proposals of the said person shall be deemed to have been approved by the commissioner.

304. (1) No person shall make or lay out any new private street or

New private street not to be made and buildings on either side thereof not to be erected except in accordance with commissioner's directions or approval.

erect any building on either side thereof otherwise than in accordance with the directions of the commissioner under the last preceding section, or with proposals approved by him under the said section, as the case may be.

(2) If any new private street be made or laid out, or if any building on either side of any such street be erected in contravention of this section, the commissioner may, by written notice, require the person who is making or laying out or has made or laid out such street, or who is erecting or has erected such building, on or before such day as shall be specified in such notice, by a statement in writing subscribed by him in that behalf and addressed to the commissioner, to show sufficient cause why such street or building should not be altered to the satisfaction of the commissioner or, if that be impracticable, why the same should not be demolished, or removed ;

or shall require the said person on such day and at such time and place as shall be specified in such notice to attend personally, or by an agent duly authorized by him in that behalf, and show cause as aforesaid.

(3) If such person shall fail to show sufficient cause, to the satisfaction of the commissioner, why such street or building should not be so altered or demolished or removed, the commissioner may cause the street or building to be so altered or demolished or removed and the expenses thereof shall be paid by the said person.

305. If any private street be not levelled, metalled or paved, sewered,

Levelling and draining of private streets.

drained, channelled and lighted to the satisfaction of the commissioner, he may, with the sanction of the standing committee, by written notice, require the owners of the several premises fronting or adjoining the said street or abutting thereon to level, metal or pave, drain and light the same in such manner as he shall direct.

306. (1) When any private street has been levelled, metalled or paved,

Power to declare private streets, when sewered, &c., public streets.

sewered, drained, channelled and made good to the satisfaction of the commissioner, he may and, upon the request of the owner or of any of the owners of such street, shall, if lamps, lamp-posts and other apparatus necessary for lighting such street have been provided to his satisfaction,

by notice in writing put up in any part of such street, declare the same to be a public street, and thereupon the same shall become a public street :

(2) Provided that no such street shall become a public street if, within one month after such notice has been put up, the owner of such street or of the greater part thereof, shall, by notice in writing to the commissioner, object thereto.

(3) Nothing in this section shall be deemed to affect the provisions of sections 37 and 38 of the Bombay Port Trust Act, 1879.

307. If a portion only of any street is a public street, within the

Applicability of sections 305 and 306 when a street is in part public and in part private.

meaning of that term as defined in clause (x) of section 3, the other portion of such street may for all purposes of sections 305 and 306 be deemed to be a private street.

Projections and obstructions.

Prohibition of projections upon streets, &c. 308. No person shall erect, set up or place against or in front of any premises any structure or fixture, which will :

(a) overhang, jut or project into, or in any way encroach upon, or obstruct the safe or convenient passage of the public along any street, or

(b) jut or project into or encroach upon any drain or open channel in any street, so as in any way to interfere with the use or proper working of such drain or channel or to impede the inspection or cleansing thereof.

(2) The commissioner may, by written notice, require the owner or occupier of any premises to remove any structure or fixture which has been erected, set up or placed against, or in front of, the said premises in contravention of this section, (a) or of section 196 of the Bombay Municipal Act, 1872(a), or to alter the same in such manner as the commissioner thinks fit to direct.

Power to require removal of the same.

(3) If the occupier of the said premises removes or alters any structure or fixture in accordance with such notice, he shall be entitled, unless the structure or fixture was erected, set up or placed by himself, to credit in account with the owner of the premises for all reasonable expenses incurred by him in complying with the said notice.

309. (1) If any such structure or fixture as is described in the last preceding section has been erected, set up or placed against, or in front of, any premises, at any time before the Bombay Municipal Act, 1872, came into force, the commissioner may give notice as aforesaid to the owner or occupier of the said premises.

Power to require removal or alteration of projections, &c., made before Bo. Act III. of 1872 came into force.

(2) But, if in any such case the structure or fixture shall have been lawfully erected, set up or placed, compensation shall be paid by the commissioner to every person who sustains loss or damage by the removal or alteration thereof.

310. (1) The commissioner may give a written permission, on such terms as he shall in each case think fit, to the owner or occupier of any building abutting on any street :

Projections over streets may be permitted in certain cases.

(a) to erect an arcade over such street or any portion thereof, or

S. 308 (2) (a)—(a).—The words and figures between these letters are inserted by S. 6 of Bom. Act IV. of 1888.

(b) to put up a verandah, balcony, sunshade, weather-frame or other such structure or thing projecting from any upper story over any street or portion thereof :

(2) Provided that no permission shall be given by the commissioner for the erection of an arcade in any public street in which the construction of arcades has not been previously sanctioned by the corporation.

(3) The provisions of section 308 shall not be deemed to apply to any arcade, verandah, balcony, sunshade, weather-frame or other structure or thing erected or put up under and in accordance with the terms of a permission granted under this section.

311. The commissioner may at any time, by written notice, require the owner of any premises on the ground-floor of which any door, gate, bar or window opens outwards upon a street, or upon any land required for the improvement of a street, in such manner as, in the opinion of the commissioner, to obstruct the safe or convenient passage of the public along such street, to have the said door, gate, bar or window altered so as not to open outwards.

312. (1) No person shall, except with the permission of the commissioner under section 310 or 317, erect or set up any wall, fence, rail, post, step, booth or other structure or fixture in or upon any street or upon or over any open channel, drain, well, or tank in any street so as to form an obstruction to, or an encroachment upon, or a projection over, or to occupy, any portion of such street, channel, drain, well or tank.

(2) Nothing in this section shall be deemed to apply to any erection or thing to which clause (c) of section 322 applies.

313. (1) No person shall, except with the written permission of the commissioner :

(a) place or deposit upon any street or upon any open channel, drain or well in any street, any stall, chair, bench, box, ladder, bale or other thing so as to form an obstruction thereto or encroachment thereon ;

(b) project at a height of less than twelve feet from the surface of the street any board or shelf beyond the line of the plinth of any building, over any street, or over any open channel, drain, well or tank in any street ;

(c) attach to or suspend from any wall or portion of a building abutting on a street, at a less height than aforesaid, any thing whatever.

(2) Nothing in clause (a) applies to building-materials.

Commissioner may, without notice, remove anything erected in contravention of section 312, after it comes into force, or deposited, &c., in contravention of section 313.

314. The commissioner may, without notice, cause to be removed :

(a) any wall, fence, rail, post, step, booth or other structure or fixture which shall be erected

or set up in or upon any street, or upon or over any open channel, drain, well or tank contrary to the provisions of sub-section (1) of section 312, after the same comes into force ;

(b) any stall, chair, bench, box, ladder, bale, board or shelf, or any other thing whatever placed, deposited, projected, attached or suspended in, upon, from or to any place in contravention of sub-section (1) of section 313.

315. (1) The commissioner may, by written notice, require the owner

Power to require removal of any structure or fixture erected or set up before section 312 came into force.

or occupier of any premises contiguous to, or in front of, or in connection with which any wall, fence, rail, post, step, booth or other structure or fixture, which it would be unlawful to erect or set up after section 312 comes into force, has been erected or set up before the said section comes into force, to remove the said wall, fence, rail, post, step, stall or other structure or thing.

(2) But, if in any such case the structure or fixture shall have been lawfully erected or set up, compensation shall be paid by the commissioner to every person who sustains loss or damage by the removal or alteration thereof.

316. (1) No person shall tether any animal or cause or permit the same

Prohibition of the tethering of animals in the public streets.

to be tethered by any member of his family or household in any public street.

(2) Any animal tethered as aforesaid may be removed by the commissioner or by any municipal officer or servant and made over to a police officer, or may be removed by a police officer, who shall deal therewith as with an animal found straying.

Temporary erections on streets during festivals.

317. With the concurrence of the police commissioner, the commissioner

Commissioner may permit booths, &c., to be erected on streets on festivals.

may grant a written permission for the temporary erection of a booth and any other such structure on any street on occasions of ceremonies and festivals.

Provisions concerning execution of works in or near to streets.

318. Whenever the soil or pavement of any street is opened or broken up by or under the order of the commissioner or of any municipal officer or servant, for the execution of any work on behalf of the corporation, the work on account of which the same shall have been opened or broken up shall be completed and the soil or pavement filled in, re-instated and made good with all convenient speed; and on completion of the work, the surplus of earth and materials, if any, excavated and all rubbish occasioned thereby shall be removed without delay.

319. (1) The commissioner may, whilst any such work as aforesaid or any work which may lawfully be executed in any street is in progress, direct that the said street shall be wholly or partially closed for traffic or for traffic of such description as he shall think fit; and shall set up in a conspicuous position an order prohibiting traffic to the extent so directed, and fix such bars, chains or posts across or in the street as he shall think proper for preventing or restricting traffic therein.

(2) No person shall, without the permission of the commissioner or without other lawful authority, remove any bar, chain or post so fixed or infringe any order prohibiting traffic so set up.

320. Whilst the execution of any work on behalf of the corporation is in progress in any street, the commissioner shall, so far as may be reasonably practicable, make adequate provision for the passage or diversion of traffic, for securing access to all premises approached from such street and for any drainage, water-supply or means of lighting which may be interrupted by reason of the execution of the said work, and shall pay compensation to any person who sustains special damage by reason of the execution thereof.

Precautions to be taken for the public safety whilst municipal works are in progress in any street.

321. (1) Whilst the execution of any work on behalf of the corporation is in progress in any street, the commissioner shall:

- (a) take proper precaution for guarding against accident by shoring up and protecting the adjoining buildings;
- (b) have any place where the soil or pavement has been opened or broken up fenced and guarded;
- (c) have a light sufficient for the warning of passengers set up and kept every night against any such place and against any bars, chains or posts set up under section 319, for so long as such place shall be continued open or broken up, or such bars, chains or posts shall remain set up.

(2) No person shall, without the written permission of the commissioner or without other lawful authority, remove any shoring-timber, or fence, or extinguish any light employed or set up for any of the purposes of this section.

Streets not to be opened or broken up and building-materials not to be deposited thereon without permission.

322. (1) No person, other than the commissioner or a municipal officer or servant, shall, without the written permission of the commissioner or without other lawful authority:

- (a) open, break up, displace, take up or make any alteration in or cause any injury to the soil or pavement, or any wall, fence, post, chain, or other material or thing forming part of any street; or
- (b) deposit any building-materials in any street; or
- (c) set up in any street any scaffold or any temporary erection for the purpose of any work whatever, or any posts, bars, rails, boards or other things by way of enclosure, for the purpose of making mortar or depositing bricks, lime, rubbish or other materials.

(2) Any permission granted under clause (b) or clause (c) shall be terminable at the discretion of the commissioner, on his giving not less than twenty-four hours' written notice of the termination thereof to the person to whom such permission was granted.

323. Every person to whom any permission is granted under section

Precautions for public safety to be taken by persons to whom permission is granted under section 322.

322 shall, at his own expense, cause the place where the soil or pavement has been opened or broken up or where he has deposited building-materials or set up any scaffold, erection or other thing, to be properly fenced and guarded, and in all cases in which the same is necessary to prevent accidents, shall cause such place to be well lighted during the night.

324. (1) Every person to whom permission is granted under section

Persons to whom permission is granted under section 322 must re-instate streets, &c.

322 to open or break up the soil or pavement of any street, or who, under other lawful authority, opens or breaks up the soil or pavement of any street, shall with all convenient speed complete the work for which the same shall be opened or broken up and fill in the ground and re-instate and make good the street or pavement so opened or broken up, without delay, to the satisfaction of the commissioner.

(2) If the said person shall fail to re-instate and make good the street or pavement as aforesaid, the commissioner may restore such street or pavement and the expenses incurred by the commissioner in so doing shall be paid by the said person.

325. The commissioner may, by written notice, require any person to whom permission is granted under section 322 to open or break up the soil or pavement of any street, or who, under any other lawful authority, opens or breaks up the soil or pavement of any street, for the purpose of executing any work, to make provision to his satisfaction for the passage or diversion of traffic, for securing access to the premises approached from such street and for any drainage, water-supply or means of lighting which may be interrupted by reason of the execution of the said work.

326. (1) No person who proposes to build, take down or re-build any building, or wall, or to alter or repair any part of any building or wall, shall, in any case in which the footway in any adjacent street will be thereby obstructed or rendered less convenient, commence doing so, without first having caused to be put up a proper and sufficient hoard or fence, with a convenient platform and handrail, if there be room enough for the same and the commissioner shall think the same desirable, to serve as a footway for passengers outside of such hoard or fence.

(2) No hoard or fence shall be so put up without the previous written permission of the commissioner, and every such hoard or fence put up with such permission, with such platform and handrail as aforesaid, shall be continued standing and maintained in good condition to the satisfaction of the commissioner, by the person who carries on the work, during such time as may be necessary for the public safety and convenience; and, in all cases in which the same is necessary to prevent accidents, the said person shall cause such hoard or fence to be well lighted during the night.

(3) The commissioner may, by written notice, require the person aforesaid to remove any hoard or fence so put up.

Naming of streets, &c.

Naming streets, and numbering of houses.

327. (1) The commissioner may, from time to time :

- (a) with the sanction of the corporation, determine the name by which any street shall be known ;
- (b) cause to be put up or painted on a conspicuous part of any house at or near each end, corner or entrance to every street, the name of such street as so determined ;
- (c) cause a number to be put up or painted in a conspicuous place on the outer side, wall, door or gate of any premises.

(2) No person shall, without the written permission of the commissioner or without other lawful authority, destroy, remove, deface, or in any way injure any such name or number, or put up or paint any name or number different from that put up or painted by order of the commissioner.

Bill-posting.

328. No person shall, without the consent of the owner or occupier, affix any posting-bill, placard or other paper or means of advertisement against or upon any building, wall, board, fence or pale, or write upon, soil, deface or mark any such building, wall, board, fence or pale with chalk or paint or in any other way whatsoever.

Prohibition of posting of bills, &c., except with consent of owner or occupier of buildings, &c.

Dangerous places.

329. (1) If any place is, in the opinion of the commissioner, from want of sufficient repair, protection or enclosure, or owing to some work being carried on thereupon, dangerous to passengers along a street, or to persons, other than the owner or occupier of the said place, who have legal access thereto or to the neighbourhood thereof, he may, by notice in writing, require the owner or occupier thereof, to repair, protect or enclose the said place or take such other step as shall appear to the commissioner necessary, in order to prevent danger therefrom.

(2) The commissioner may, before giving any such notice or before the period of any such notice has expired, take such temporary measures as he thinks fit to prevent danger from the said place. Any expense incurred by the commissioner in taking such temporary measures shall be paid by the owner or occupier of the place to which the said notice refers.

Lighting of streets.

Public streets to be lighted.

330. The commissioner shall :

- (a) take measures for lighting in a suitable manner the public streets and municipal markets and all buildings vesting in the corporation ; and
- (b) procure, erect and maintain such a number of lamps, lamp-posts and other appurtenances as may be necessary for the said purpose ; and
- (c) cause such lamps to be lighted by means of oil, gas, electricity or such other light as the corporation shall from time to time determine ;

and may :

- (d) place and maintain electric wires for the purpose of lighting such lamps under, over, along or across, and posts, poles, standards, stays, struts, brackets, and other contrivances for carrying, suspending or supporting lamps or electric wires in or upon, any immoveable property, without being liable to any claim for compensation thereanent :

Provided that such wires, posts, poles, standards, stays, struts, brackets and other contrivances shall be so placed as to occasion the least practicable inconvenience or nuisance to any person.

331. No person shall, without lawful authority, take away or wilfully break, throw down, or damage :

Prohibition of removal, &c., of lamps.

- (a) any lamp, lamp-post, or lamp-iron set up in any public street or in any municipal market or building vesting in the corporation ;
- (b) any electric wire for lighting any such lamp ;
- (c) any post, pole, standard, stay, strut, bracket or other contrivance for carrying, suspending or supporting any such electric wire or lamp ;

and no person shall wilfully extinguish the light, or damage any appurtenance of any such lamp.

332. If any person shall, through negligence or accident, break any lamp set up in any public street, or municipal market or building vesting in the corporation, he shall pay the expenses of repairing the damage so done by him.

Persons accidentally breaking lamp to repair the damage.

333. (1) No gas-pipe shall be laid in a drain or on the surface of an open channel or house-gully.

Manner of laying gas-pipes.

(2) Gas-pipes shall be laid at the greatest practicable distance from water-pipes, having regard to the width of the street. Where the width of the street will allow of it, the said distance shall not be less than four feet.

(3) When it is necessary for a gas-pipe to cross a water-pipe, the gas-pipe shall, if practicable, be laid above the water-pipe. A gas-pipe so laid shall be at least nine feet in length and, as nearly as the situation will admit of, shall be so placed as to form with the water-pipe a right angle and so that no joint in the gas-pipe will be nearer to any water-pipe than four feet. The greatest practicable distance shall be kept between a water-pipe and a gas-pipe which crosses it and the gas-pipe shall, throughout its entire length, be sufficiently bedded in with good sound clay or other fit material of a proper consistence, which shall be well worked and rammed into a trench all round the gas-pipe.

(4) If any gas-pipe be laid in any way contrary to the provisions of this section, the commissioner may make such alteration with respect to such pipe as he shall think necessary and the expenses thereof shall be paid by the person under whose order or management the pipe has been laid.

334. (1) The commissioner may, whenever for any of the purposes of this Act it shall appear to him necessary, by written notice, require the owner of any gas-pipe or of any other gas-work laid in any street, to raise, sink or otherwise alter the situation of such pipe or work.

(2) Every alteration required to be made under sub-section (1), shall be made at the charge of the municipal fund and compensation shall be paid to the owner by the commissioner for the damage, if any, which he sustains by reason of such alteration :

(3) Provided that no such alteration shall be made which will prevent gas passing through any pipe or work as freely and conveniently as, having regard to all the requirements of this Act, is practicable.

335. (1) Without the written permission of the commissioner, no building, wall or other structure shall be newly erected, and no street or railway shall be constructed over any gas-pipe belonging to the corporation.

(2) If any building, wall or other structure be so erected, or any street or railway be so constructed, the commissioner may, with the approval of the standing committee, cause the same to be removed or otherwise dealt with as to the commissioner shall appear fit, and the expenses thereby incurred shall be paid by the person offending.

Watering of streets.

Measures for watering.

336. The commissioner may :

- (a) take measures for having the public streets watered at such times and seasons and in such manner as he shall think fit ;
- (b) procure and maintain such water-carts, animals and apparatus as he shall think fit for the said purpose.

CHAPTER XII.

BUILDING REGULATIONS.

Notices regarding erection of buildings.

337. (1) Every person who shall intend to erect a building shall give to the commissioner notice of his said intention, in a form, obtained for this purpose under section 344, specifying the position of the building.

building intended to be erected, the description of building, the purpose for which it is intended and its dimensions.

(2) In this chapter "to erect a building" means to newly erect a building, or to re-erect any building pulled down to the plinth, or any frame-building of which only the framework is left down to the plinth, or to convert into a dwelling-house any building not originally constructed for human habitation, or to convert into more than one dwelling-house a building originally constructed as one dwelling-house only; and a building so erected, re-erected or converted is called in this chapter "a new building."

338. At any time within thirty days after receipt of any notice under section 337, the commissioner may, by written notice, require the person who has given the notice first hereinbefore in this section mentioned, to furnish to the commissioner all or any of the following documents, (namely):

Commissioner may require plans and other documents to be furnished.

- (a) plans and sections of every floor of the intended building, which shall be drawn to a scale of not less than one inch to every eight feet, and shall show the position, form and dimensions of the several parts of such building and of every water-closet, privy, urinal, cesspool, well and other appurtenance and, in the case of a building intended as a dwelling-house for two or more families or for carrying on any trade or business in which a number of people exceeding twenty may be employed or as a place of public resort, the means of ingress and egress;
- (b) a description in writing of the materials of which it is intended that the building shall be constructed, of the thickness of the walls and roof and of the intended mode of drainage, means of water-supply, and means of ventilation, and, if the building is to adjoin or abut on a street, the intended means of access from such street;
- (c) a block plan of such building, which shall be drawn to a scale of not less than one inch to every forty feet, and shall show the position and appurtenances of the properties, if any, immediately adjoining, the width and level of the street, if any, in front and of the street, if any, at the rear of such building, the levels of the foundations and lowest floor of such building and of any yard or ground belonging thereto;
- (d) a plan showing the intended line of drainage of such building and the intended size, depth and inclination of each drain and the details of the arrangement proposed for the ventilation of the drains.

339. The commissioner may decline to accept any plan, section or description as sufficient for the purposes of the last preceding section which does not bear the signature of a licensed surveyor, in token of its having been prepared by such surveyor or under his supervision.

Commissioner may require plans, &c., submitted under last preceding section, to be prepared by a licensed surveyor.

340. If the notice given under section 337 and the documents, if any, furnished under section 338 do not supply all the information which the commissioner deems necessary to enable him to deal satisfactorily with the case, the commissioner may, at any time within thirty days after receipt of the said documents, by written notice, require the production of such further particulars and details as he deems necessary.

Additional information and the attendance of the person who gave the notice may be required.

341. If any requisition made under section 338 or 340 is not complied with, the notice given under section 337 shall be deemed not to have been given.

Effect of non-compliance with requisition under sec. 338 or 340.

Notices regarding execution of works not amounting to the erection of a building.

342. Every person who shall intend :
- (a) to make any addition to a building ; or
- (b) to make any alteration or repairs to a building, not being a frame-building, involving the removal or re-erection of any external or party-wall thereof or of any wall which supports the roof thereof, to an extent exceeding one-half of such wall above the ground-level, such half to be measured in superficial feet ; or
- (c) to make any alteration or repairs to a frame-building, involving the removal or re-erection of more than one-half of the posts in any such wall thereof as aforesaid, such half to be measured in superficial feet ; or
- (d) to remove or reconstruct any portion of a building abutting on a street which stands within the regular line of such street ;

shall give to the commissioner, in a form obtained for this purpose under section 344, notice of his said intention, specifying the position of the building in which such work is to be executed and the nature and extent of the intended work.

343. (1) If any notice given under the last preceding section does not supply all the information which the commissioner deems necessary to enable him to deal satisfactorily with the case, he may, at any time

Plans and additional information may be called for.

within thirty days after receipt of the said notice, by written notice, require the person who gave the notice first hereinbefore in this section mentioned to furnish plans and sections of the intended new work or of any specified portion of the intended new work and a description in writing of the materials of which it is intended that the new work or any specified portion thereof shall be constructed, of the thickness of any new wall or roof which it is intended to construct and of such other particulars and details as he deems necessary.

(2) The commissioner may decline to accept as sufficient for the purposes of this section any plan, section, or description which does not bear the signature of a licensed surveyor, in token of its having been prepared by such surveyor or under his supervision.

Forms of Notices.

344. (1) The commissioner shall cause printed forms of notices for the purposes of section 337 or 342 to be delivered to any person requiring the same, on payment of such fee not exceeding eight annas for each form as shall from time to time be prescribed in this behalf by the commissioner, with the approval of the standing committee.

(2) There shall be printed on the reverse of every such notice, or on a separate paper supplied, without extra charge, therewith, a copy of sections 337, 338, 339, 340, 341, 342, 343, 345, 346, 347, 348 and 349 and of all by-laws made under clauses (c), (d) and (e) of section 461 at the time in force.

Commencement of work.

345. If within thirty days after receipt of any notice under section 337 or 342, or of the plan, section, description or further information, if any, called for under section 338, 340 or 343, as the case may be, the commissioner fails to intimate in writing to the person who has given the said notice, his disapproval of the building which the said person proposes to erect, or of the work which he proposes to execute;

or if, within the said period, the commissioner signifies in writing to the said person, his approval of the said building or work;

the said person may at any time within one year from the date of the delivery of the notice to the commissioner, proceed with the said building or work in accordance with his intention as described in the notice or in any of the documents aforesaid, but not so as to contravene any of the provisions of this Act or any by-law made under this Act at the time in force.

346. (1) If the commissioner disapproves of any building or work of which notice has been given as aforesaid or of any portion or detail thereof, by reason that the same will contravene some provision of this Act or some by-law made hereunder at the time in

Building or work which is disapproved by the commissioner may be proceeded with, subject to terms.

force or will be unsafe, he may, at any time within thirty days of the receipt of the notice or of the plan, section, description or further information, if any, called for under section 338, 340 or 343, as the case may be, by a written notice, intimate to the person who gave the notice first hereinbefore in this section mentioned his said disapproval and the reason for the same and prescribe terms subject to which the building or work may be deemed to be approved by him.

(2) The person who gave the notice concerning any such building or work may proceed with the same, subject to the terms prescribed as aforesaid but not otherwise, at any time within one year from the date of receipt by him under sub-section (1) of the written notice in this behalf, but not so as to contravene any of the provisions of this Act or any by-law made hereunder at the time in force.

When work may be commenced.

347. (1) No person shall commence to erect any building or to execute any such work as is described in section 342 :

- (a) until he has given notice of his intention, as hereinbefore required, to erect such building or execute such work and the commissioner has either intimated his approval of such building or work or failed to intimate his disapproval thereof within the period prescribed in this behalf in section 345 or 346 ;
- (b) after the expiry of the period of one year prescribed in sections 345 and 346, respectively, for proceeding with the same.

(2) If a person who is entitled under section 345 or 346 to proceed with any building or work, fails so to do within the period of one year prescribed in the said sections, respectively, for proceeding with the same, he may at any subsequent time give a fresh notice of his intention to erect such building or execute such work and thereupon the provisions hereinbefore contained shall apply as if such fresh notice were a first notice of such person's intention.

Provisions as to structure, materials, &c.

348. (1) With respect to buildings which are to be newly erected on any site previously unbuilt upon, the following provisions shall have effect, namely :

- (a) The erection of any such building on either side of a new street may be disapproved by the commissioner, unless and until such new street has been levelled, metalled or paved, sewered and drained to the satisfaction of the commissioner.
- (b) The erection of any such building in any part of the city in which the position and direction of the streets likely to be required in the future have not yet been laid down or

determined, shall, with the assent of the standing committee, be disapproved by the commissioner, unless the site proposed for such building is, in the opinion of the commissioner, such as, with reference to the positions occupied by the buildings, if any, already existing in the neighbourhood, will admit of the construction in the future of one or more new streets convenient for the occupiers of all the buildings in the neighbourhood and for the purposes of drainage, water-supply and ventilation: provided that any person whose building is so disapproved, may, by written notice to the commissioner, require that the position and direction of the future streets in the vicinity of his intended building be forthwith laid down and determined, and if such requisition be not complied with within six months from the date thereof, may, subject to all other provisions of this Act applicable thereto, proceed with the erection of his building.

- (c) The foundation of any such building shall not be constructed on any site which has been filled up with, or has been used as a place for depositing, excrementitious matter or the carcasses of dead animals or other filthy or offensive matter, until such matter shall have been properly removed to the satisfaction of the commissioner.
- (d) Every such building intended to be used as a dwelling shall be built with a plinth at least two feet above the centre of the nearest street and not below such standard level as may be fixed by the commissioner in this behalf.
- (e) No such building which abuts on a street of a less width than fifty feet, shall, without the written permission of the commissioner, be erected to a greater height than one-and-a-half times the width of the street it abuts on.
- (f) In addition to any means of ventilation required by any by-law made under this Act at the time in force, every such building intended to be used as a dwelling shall be so constructed that the whole of at least one side of every room thereof shall either be an external wall or abut on an interior open space. Such external wall, except where it faces a street of not less than fifteen feet in width, shall have between it and the boundary-line of the owner's premises, an open space, extending throughout the entire length of such wall, at least two feet wide or, in the case of a chawl or building intended to form a range of separate rooms for lodgers, at least five feet wide. Such interior open space shall have an area equal to not less than one-tenth of the aggregate floor-area

of all the rooms abutting thereon and shall not be in any direction less than six feet across. And every open space, whether exterior or interior, required by this clause shall be and be kept free from any erection thereon and open to the sky and shall be and be kept open to access from each end thereof.

- (g) Every room intended to be inhabited in any such building, except a room in the roof thereof, shall be in every part at least eight feet in height from the floor to the ceiling.
- (h) Every such room in the roof of any such building shall have an average height of at least seven feet from the floor to the ceiling.
- (j) Every such room shall have a clear superficial area of not less than eighty square feet.
- (k) In addition to any means of ventilation required by any by-law made under this Act at the time in force, every such room shall be ventilated by means of doors or windows which open directly into the external air and have an aggregate opening equal to not less than one-fourth of the superficial area of the side of the room which faces an open space.
- (l) Huts or sheds or ranges or blocks of huts or sheds, whether the same are to be used as dwellings or stables or for any other purpose, shall be built, if the commissioner thinks fit so to require :

(i) so that they may stand in regular lines, with a free passage or way in front of and between every two lines of such width as the commissioner thinks proper for ventilation and for facilitating scavenging ; and

(ii) with such and so many privies, latrines or urinals and such means of drainage as the commissioner deems necessary ; and

(iii) at such a level as will suffice for the means of drainage required by the commissioner.

(2) Nothing in clause (a) shall be deemed to affect the power of Government to determine, under section 38 of the Bombay Port Trust Act, 1879, any dispute which arises between the Trustees of the Port of Bombay and the commissioner as to whether any road within the limits of the property of the said trustees has been duly levelled, metalled or paved, sewered and drained.

349. (1) No external wall and no covering of a roof built or renewed since the Bombay Municipal Act, 1872, came into force shall, except with the written permission of the commissioner, consist of wood, cloth, canvas, grass, leaves, mats or any other inflammable material.

Roofs and external walls of buildings not to be of inflammable material.

(2) If any external wall or covering of a roof is or has been, since the said Act came into force, constructed of any such material, the commissioner may, by written notice, require the owner or occupier of the building to which such wall or roof appertains to remove such wall or covering.

Inspection.

350. The commissioner may at any time during the erection of a building or the execution of any such work as is described in section 342 make an inspection thereof, without giving previous notice of his intention so to do.

Inspection of buildings in course of erection, alteration, &c.

351. (1) If the erection of any building or the execution of any such work as is described in section 342 is commenced contrary to the provisions of section 347, the commissioner, unless he deems it necessary to take proceedings in respect of such building or work under section 354, shall :

Proceedings to be taken in respect of building or work commenced contrary to section 347.

- (a) by written notice, require the person who is erecting such building or executing such work, or has erected such building or executed such work, on or before such day as shall be specified in such notice, by a statement in writing subscribed by him or by an agent duly authorized by him in that behalf and addressed to the commissioner, to show sufficient cause why such building or work shall not be removed, altered or pulled down ; or
- (b) shall require the said person on such day and at such time and place as shall be specified in such notice to attend personally, or by an agent duly authorized by him in that behalf, and show sufficient cause why such building or work shall not be removed, altered or pulled down.

(2) If such person shall fail to show sufficient cause, to the satisfaction of the commissioner, why such building or work shall not be removed, altered or pulled down, the commissioner, with the approval of the standing committee, may remove, alter or pull down the building or work and the expenses thereof shall be paid by the said person.

352. (1) If there shall be reasonable ground for suspecting that in the erection of any such building or in the execution of any such work as is referred to in the last preceding section, anything has been done contrary to any provision of this Act or of any by-law made under this Act at the time in force, or that any thing required by any such provision or by-law to be done has been omitted to be done ;

Buildings or works commenced contrary to section 347 may be cut into and laid open for purpose of inspection.

and if, on inspecting such building or work it is found that the same has been completed or is too far advanced to permit of any such fact being ascertained;

the commissioner may, with the approval of the standing committee, by written notice, require the person who has erected such building or executed such work or is erecting such building or executing such work, to cause so much of the building or work as prevents any such fact being ascertained to be cut into, laid open or pulled down to a sufficient extent to permit of the same being ascertained.

(2) If it shall thereupon be found that in the erection of such building or the execution of such work, nothing has been done contrary to any provision of this Act or of any by-law made under this Act at the time in force and that nothing required by any such provision or by-law to be done has been omitted to be done, compensation shall be paid by the commissioner to the person aforesaid for the damage and loss incurred by cutting into, laying open or pulling down the building or work.

353. The commissioner may, at any time during the erection of a building or the execution of any such work as aforesaid,

Enforcement of provisions concerning buildings and works.

or at any time within three months after the completion thereof, by written notice, specify any matter in respect of which the erection of such building or the execution of such work may be in contravention of any provision of this Act or of any by-law made under this Act at the time in force, and require the person erecting or executing or who has erected or executed such building or work, or, if the person who has erected or executed such building or work is not at the time of the notice the owner thereof, then the owner of such building or work, to cause any thing done contrary to any such provision or by-law to be amended or to do anything which by any such provision or by-law may be required to be done but which has been omitted to be done.

Dangerous Structures.

354. (1) If it shall at any time appear to the commissioner that any structure (including under this expression any

Removal of structures, &c., which are in ruins or likely to fall.

building, wall or other structure and anything affixed to or projecting from any building, wall or other structure) is in a ruinous condition, or likely to fall, or in any way dangerous to any person occupying, resorting to, or passing by such structure or any other structure or place in the neighbourhood thereof, the commissioner may, by written notice, require the owner or occupier of such structure, to pull down, secure or repair such structure, and to prevent all cause of danger therefrom.

(2) The commissioner may also, if he thinks fit, require the said owner or occupier, by the said notice, either forthwith or before proceeding to pull down, secure or repair the said structure, to set up a proper and sufficient hoard or fence for the protection of passers-by and other persons, with a convenient platform and handrail, if there be room enough for the same and the commissioner shall think the same desirable, to serve as a footway for passengers outside of such hoard or fence.

CHAPTER XIII.

LICENSING OF SURVEYORS AND PLUMBERS.

355. (1) The commissioner may grant to any person he thinks fit a license to act as a surveyor or as a plumber for the purposes of this Act. Each such license shall be for a renewable period of one year.

Grant of licenses to surveyors and plumbers.

(2) If any applicant for a license to act as a surveyor is a licentiate of civil engineering or a person who has passed some test of professional qualification equivalent to that for a licentiate of civil engineering, his application shall not be refused by the commissioner, except with the approval of the standing committee and upon the ground that the applicant is unfit, through incompetency, misconduct or other grave reason, to hold such license.

(3) If the commissioner refuses any application for a license under this section, he shall, at the request of the applicant, furnish such applicant with his reasons for such refusal in writing under his signature, without charge.

356. The commissioner may, with the approval of the standing committee, from time to time prescribe regulations for the guidance of licensed surveyors and plumbers, respectively, and a copy of all regulations so prescribed at the time in force shall be written on the back of every license granted to a surveyor or plumber, respectively.

Regulations may be prescribed for guidance of licensed surveyors and plumbers.

357. The standing committee may from time to time prescribe the fees or charges to be paid to licensed plumbers for any work done by them under or for any purpose of this Act; and no licensed plumber shall demand or receive more than the fee or charge so prescribed for any such work.

Fees and charges of licensed plumbers to be prescribed by the standing committee.

358. No licensed plumber shall execute any work under this Act carelessly or negligently or make use of any bad material, appliance or fitting for the purpose of such work.

Licensed plumber to be bound to execute work properly.

CHAPTER XIV.

MUNICIPAL FIRE-BRIGADE.

359. (1) With a view to the discharge by the corporation of the duty of extinguishing fire and protecting life and property in case of fire, the commissioner shall provide, in the schedule of municipal officers and servants from time to time prepared by him under section 79, for a force of firemen, with a proper number of officers over them, to be called "the municipal fire-brigade," and shall furnish the said brigade with all such fire-engines, fire-escapes, horses, accoutrements, tools, implements and means of inter-communication as may be necessary for the efficient discharge of their duties.

(2) A person may be appointed to be a member of the fire-brigade in addition to any other office or employment of such person.

Power to make regulations for fire-brigade.

360. The commissioner shall from time to time make regulations for:

- (a) the training, discipline and good conduct of the men belonging to the fire-brigade;
- (b) their speedy attendance with engines, fire-escapes and all necessary implements on the occasion of any alarm of fire;
- (c) the maintenance of the said brigade generally in a due state of efficiency.

361. On the occasion of a fire, the chief or other officer in charge of the fire-brigade may, subject to such orders as the commissioner may from time to time issue in this behalf, take the command of all municipal officers and servants present and of any other persons who voluntarily place their services at his disposal; and may

Powers of chief officer of fire-brigade at a fire.

- (a) remove, or order any fire-man, or other officer or person under his command to remove any persons who interfere by their presence with the operations of the fire-brigade;
- (b) take generally any measures that appear expedient for the protection of life and property, with power by himself or by the persons under his command, to break into or through or take possession of, or pull down any premises for the purpose of putting an end to such fire, doing as little damage as possible;
- (c) cause the water to be shut off from the mains and pipes of any district in order to give a greater supply and pressure of water in the district in which the fire has occurred and

utilize the water of any well or tank available for the purpose of extinguishing such fire.

362. It shall be the duty of all police officers and of all municipal officers and servants to aid the fire-brigade in the execution of their duties. They may close any street in or near which a fire is burning and remove any persons who interfere by their presence with the operations of the fire-brigade.

Police and municipal officers and servants to aid the fire-brigade.

363. Any damage occasioned by the fire-brigade in the due execution of their duties, or by any police or municipal officer or servant who aids the fire-brigade, shall be deemed to be damage by fire within the meaning of any policy of insurance against fire.

Damages done by fire-brigade to be deemed damage by fire.

364. A report of every fire which occurs in the city shall be submitted, by the chief or other officer in charge of the fire-brigade, not later than the day following the fire, to the commissioner, who shall make such further inquiry, if any, as he may deem necessary and shall furnish a weekly return of all fires which occur in the city to the standing committee.

Reports of fires to be submitted.

CHAPTER XV.

SANITARY PROVISIONS.

Scavenging and Cleansing.

365. For the purpose of securing the efficient scavenging and cleansing of all streets and premises, the commissioner shall take measures for securing:

Commissioner to provide for cleansing of streets and removal of refuse.

- (a) the daily surface-cleansing of all streets in the city and the removal of the sweepings therefrom;
- (b) the removal of the contents of all receptacles and dépôts and of the accumulations at all places provided or appointed by him under section 367 or 368 for the temporary deposit of any of the matters specified in the said sections.

366. All matters collected by municipal servants or contractors in pursuance of the last preceding section and of section 369 shall be the property of the corporation.

Refuse, &c., to be the property of the corporation.

367. (1) The commissioner shall provide or appoint, in proper and convenient situations, public receptacles, dépôts and places for the temporary deposit or final disposal of:

- (a) dust, ashes, refuse and rubbish ;
- (b) carcasses of dead animals, and excrementitious and polluted matter :

(2) Provided that :

- (c) the said matters shall not be finally disposed of in any place or manner in which the same have not heretofore been so disposed of, without the sanction of the corporation or in any place or manner which Government think fit to disallow ;
- (d) any power conferred by this section shall be exercised in such manner as to create the least practicable nuisance.

368. (1) It shall be incumbent on the occupiers of all premises to cause all dust, ashes, refuse and rubbish to be collected from their respective premises and to be deposited at such times as the commissioner, by public notice, from time to time prescribes, in the public receptacle, dépôt or place provided or appointed under clause (a) of the last preceding section for the temporary deposit thereof :

(2) Provided that the commissioner may, if he thinks fit, by written notice, require the occupier or owner of any land to cause all dust, ashes, refuse and rubbish to be collected daily, or otherwise periodically, from the said land and from any building standing thereon and deposited temporarily upon any place forming a part of the said land which the commissioner appoints in this behalf, and it shall be incumbent on the said occupier to cause the said matters to be collected and deposited accordingly.

369. When the commissioner has given public notice, under clause (a) of section 142, of his intention to provide, in a certain portion of the city, for the collection, removal and disposal, by municipal agency, of all excrementitious and polluted matter from privies, urinals and cesspools, it shall be lawful for the commissioner to take measures for the daily collection, removal and disposal of such matter from all premises situate in the said portion of the city.

370. It shall be incumbent on the occupier of any premises situate in any portion of the city for which the commissioner has not given a public notice under clause (a) of section 142 and in which there is not a water-closet or privy connected with a muni-

cipal drain, to cause all excrementitious and polluted matter accumulating upon his premises to be collected and to be conveyed to the nearest receptacle or depôt provided for this purpose under clause (b) of section 367, at such times, in such vehicle or vessel, by such route and with such precautions, as the commissioner by public notice from time to time prescribes.

371. In any portion of the city in which the commissioner has given a public notice under clause (a) of section 142, and in any premises, wherever situate, in which there is a water-closet or privy connected with a municipal drain, it shall not be lawful, except with the written permission of the commissioner, for any person, who is not employed by or on behalf of the commissioner, to discharge any of the duties of halálkhors.

372. No person :

(a) who is bound, under section 368 or section 370, to cause the

<p>Prohibition of : tious or polluted matter, shall failure to remove refuse, &c., when bound to do so ;</p>	<p>removal of dust, ashes, refuse and rubbish, or of excrementi- on his premises for more than twenty-four hours or neglect to cause the same to be removed to the depôt, receptacle or place provided or appointed for the purpose ;</p>
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(b) shall remove any dust, ashes, refuse or rubbish, or any excre-

<p>removal of refuse, &c., con- trary to orders or without proper precautions ;</p>	<p>mentitious or polluted matter, otherwise than in conformity with the requirements of any public or written notice at the time being in force under section 368, or use for the removal of any excrementitious or polluted matter any vehicle or vessel not having a covering proper for preventing the escape of any portion of the contents thereof or of the stench therefrom ;</p>
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(c) shall, whilst engaged in the removal of any dust, ashes, refuse or

<p>failure to clear away any refuse, &c., which drops during removal ;</p>	<p>rubbish, or of any excrementi- tious or polluted matter, fail forthwith thoroughly to sweep and cleanse the spot in any street upon which, during removal, any portion thereof may fall, and entirely to remove the sweepings ;</p>
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- (d) shall place or set down in any street any vehicle or vessel for the removal of excrementitious or polluted matter, or suffer the same to remain in any street for any greater length of time than is reasonably necessary ;
- leaving filth-carts, &c., unnecessarily in the streets ;
- (e) shall throw or place any dust, ashes, refuse, or rubbish, or any excrementitious or polluted matter, on any street, or in any place not provided or appointed for this purpose
- throwing or placing refuse, &c., in any place not assigned for the purpose ;
- under section 367 or 368 ;
- (f) who is the owner or occupier of any building or land, shall allow any filthy matter to flow, soak, or be thrown therefrom or keep or suffer to be kept therein or thereupon, anything so as to be a nuisance to any person, or negligently suffer any privy-receptacle or other receptacle or place for the deposit of filthy matter or rubbish on his premises to be in such a state as to be offensive or injurious to health.
- allowing filthy matter to flow or soak from any premises, and keeping anything thereupon so as to create a nuisance.

373. If it shall in any case be shown that dust, ashes, refuse or rubbish, or any excrementitious or polluted matter has or have been thrown or placed on any street or place, in contravention of clause (e) of the last preceding section, from some building or land, it shall be presumed, until the contrary is proved, that the said offence has been committed by the occupier of the said building or land.

Presumption as to offender under clause (e) of section 372.

Inspection and Sanitary regulation of premises.

374. The commissioner may inspect any building or other premises for the purpose of ascertaining the sanitary condition thereof.

Power to inspect premises for sanitary purposes.

375. If it shall appear to the commissioner necessary for sanitary reasons so to do, he may, by written notice, require the owner or occupier of any building so inspected, to cause the same or some portion thereof to be limewashed or otherwise cleansed, either externally or internally, or both externally and internally.

Cleansing and lime-washing of any building may be required.

376. If any premises, by reason of their being abandoned or unoccupied, become a resort of disorderly persons or, in the opinion of the commissioner, a nuisance, the commissioner, after such inquiry as he

Abandoned or unoccupied premises.

deems necessary, may give written notice to the owner of such premises, if he be known and resident within the city, or to any person who is known or believed to claim to be the owner, if such person is resident within the city, and shall also affix a copy of the said notice on some conspicuous part of the said premises, requiring all persons having any right of property or interest therein to take such order with the said premises as shall, in the opinion of the commissioner, be necessary to prevent the same from being resorted to as aforesaid or from continuing to be a nuisance.

377. (1) If it shall appear to the commissioner that any premises are
overgrown with rank and noisome vegetation
or are otherwise in an unwholesome or filthy
Neglected premises. condition or, by reason of their not being properly enclosed, are resorted to by the public for purposes of nature, or are otherwise a nuisance to the neighbouring inhabitants, the commissioner may, by written notice, require the owner or occupier of such premises to cleanse, clear, or enclose the same or, with the approval of the standing committee, may require him to take such other order with the same as the commissioner thinks necessary :

(2) Provided that, in so far as the unwholesome or filthy condition of such premises or such nuisance as above mentioned is caused by the discharge from, or by any defect in the municipal drains or appliances connected therewith, it shall be incumbent on the commissioner to cleanse such premises.

378. (1) If, for any reason, any building intended for or used as a
dwelling shall appear to the commissioner to be
unfit for human habitation, he may apply to the
Chief Presidency Magistrate to prohibit the
Buildings unfit for human habitation. further use of such building for such purpose; and the said Magistrate, after such inquiry as he thinks fit to make, may, by written order, make a prohibition as aforesaid or may pass such other order as he shall deem just and proper.

(2) When any such prohibition has been made, no owner or occupier of such building shall use or suffer the same to be used for human habitation until the commissioner certifies in writing that the causes rendering it unfit for human habitation have been removed to his satisfaction or the Chief Presidency Magistrate, by a written order, withdraws the prohibition aforesaid.

379. (1) If it shall appear to the commissioner that any building used
as a dwelling is so overcrowded as to endanger
the health of the inmates thereof, he may apply
Overcrowded dwellings. to the Chief Presidency Magistrate to prevent such overcrowding; and the said Magistrate, after such inquiry as he thinks fit to make, may, by written order, require the owner of the building, within a reasonable time not exceeding six weeks, to be prescribed in the said order, to abate the overcrowding thereof, by reducing the number of lodgers, tenants, or other inmates of the said building, or may pass such other order as he shall deem just and proper.

(2) If the owner of the said building shall have sub-let the same, the landlord of the lodgers, tenants or other actual inmates of the same shall, for the purposes of this section, be deemed to be the owner of the building.

(3) It shall be incumbent on every tenant, lodger or other inmate of the building to vacate on being required by the owner so to do in pursuance of any such requisition.

380. If the commissioner is of opinion that any hut or shed, used either as a dwelling or as a stable or for any

Insanitary huts and sheds.

other purpose, is likely, by reason of its being

built without a plinth or upon a plinth of insufficient height or without proper means of drainage, or on account of the impracticability of scavenging, or owing to the manner in which it and other huts or sheds are crowded together, to cause risk of disease to the inmates thereof or to the inhabitants of the neighbourhood, or is for any reason likely to endanger the public health or safety ;

he may, by written notice, which shall be affixed to some conspicuous part of such hut or shed, require the owner or occupier thereof or the owner of the land on which such hut or shed stands to remove or alter such hut or shed or to take such order for the improvement thereof as the commissioner shall deem necessary.

381. If, in the opinion of the commissioner, any pool, ditch, tank, pond,

Filling in of pools, &c., which are a nuisance.

well, quarry-hole, low ground, or stagnant

water is or is likely to become a nuisance, the

commissioner may, with the approval of the

standing committee, by notice in writing, require the owner thereof to cleanse, fill up, drain off, or remove the same or to take such other order therewith as the commissioner shall deem necessary.

382. If, in the opinion of the commissioner, the working of any quarry

Dangerous quarrying may be stopped.

or the removal of stone, earth or other material

from any place is dangerous to persons residing

in or having legal access to the neighbourhood

thereof or creates or is likely to create a nuisance, the commissioner may, with the approval of the standing committee, by written notice, require the owner of the said quarry or place to discontinue working the same or to discontinue removing stone, earth or other material from such place, or to take such order with such quarry or place, as he shall deem necessary for the purpose of preventing danger or of abating the nuisance arising or likely to arise therefrom.

Removal and trimming of trees, shrubs and hedges.

383. (1) If, in the opinion of the commissioner :

(a) any hedge is at any time insufficiently cut or trimmed, or overgrown with prickly-pear or other rank vegetation ; or

- (b) any tree or shrub has fallen or is likely to fall, to the danger of public safety, or overhangs or obstructs any street to the inconvenience or danger of passengers therein ;

the commissioner may, by written notice, require the owner or occupier of the land on which such hedge, tree or shrub is or has been growing :

- (c) to cut down such hedge to a height not exceeding four feet and to a width not exceeding three feet and to remove any such prickly-pear or other rank vegetation therefrom ; or

- (d) to remove, cut, lop, or trim such tree or shrub, as the case may be.

(2) In any case falling under clause (b), the commissioner may, if for the public safety it shall appear to him necessary so to do, cause any tree or shrub to be removed, cut, lopped or trimmed, without previously giving the said owner or occupier notice as aforesaid, and the expenses thereof shall, nevertheless, be paid by the owner or occupier.

Keeping and destruction of animals and disposal of carcasses.

Prohibitions as to keeping animals.

384. (1) No person shall :

- (a) without the written permission of the commissioner, or otherwise than in conformity with the terms of such permission, keep any swine in any part of the city ;
- (b) keep any animal on his premises so as to be a nuisance or dangerous to any person ;
- (c) feed any animal, or suffer or permit any animal to be fed or to feed, with or upon excrementitious matter, dung, stable-refuse or other filthy matter.

(2) Any swine found straying may be forthwith destroyed and the carcass thereof disposed of as the commissioner shall direct. No claim shall lie for compensation for any swine so destroyed.

385. (1) The occupier of any premises in or upon which any animal shall

Removal of carcasses of dead animals.

die or upon which the carcass of any animal shall be found and the person having the charge of any animal which dies in a street or in any open place, shall, within three hours after the death of such animal, or if the death occurs at night, within three hours after sunrise, either :

- (a) remove the carcass of such animal to some receptacle, dépôt or place appointed by the commissioner, under clause (b) of section 367 for the temporary deposit or final disposal of such carcasses, or

(b) report the death of the animal to an officer of the health department of the division of the city in which the death occurred, with a view to his causing the same to be removed.

(2) When any carcass is so removed by the health department, a fee for the removal of such amount as shall be fixed by the commissioner shall be paid by the owner of the animal or, if the owner is not known, by the occupier of the premises in or upon which, or by the person in whose charge, the same died.

Regulation of public bathing, washing, &c.

386. The commissioner may from time to time set apart portions of the seashore or other suitable places vesting in the corporation for use by the public for bathing, for the washing of animals or for drying clothes, and may from time to time, by public notice, prohibit the use by the public of any portion of the seashore or place not vesting in the corporation for any of the said purposes.

Regulation of use of public bathing-places, &c.

387. (1) The commissioner may, by public notice, regulate the use by the public:

- (a) of any portion of the seashore or other place vesting in the corporation set apart by him for any purpose under the last preceding section;
- (b) of any portion of the seashore or other place not vesting in the corporation used with his acquiescence, for any purpose mentioned in the last preceding section;
- (c) of any work and of the water in any work assigned and set apart under section 270 for any particular purpose.

(2) In the case of any portion of the seashore or of any place or work set apart assigned or used as aforesaid for bathing, the commissioner may, in such notice, prescribe the times and places of bathing for persons of each sex.

Prohibition of bathing, &c., contrary to order or regulation.

388. Except as permitted by any order or regulation made under section 270, 386 or 387, no person shall:

- (a) bathe in or near any lake, tank, reservoir, fountain, cistern, duct, stand-pipe, stream or well or on any part of the seashore or other place vesting in the corporation;
- (b) wash or cause to be washed in or near any such place or work, any animal, clothes or other article;
- (c) throw, put or cause to enter into the water in any such place or work, any animal or other thing;

(d) cause or suffer to drain into or upon any such place or work or to be brought thereinto or thereupon, any thing, or do any thing, whereby the water shall be in any degree fouled or corrupted;

(e) dry clothes in or upon any such place.

And no person shall :

(f) in contravention of any prohibition made by the commissioner under section 386, use any portion of the seashore or any place not vesting in the corporation for any purpose mentioned in the said section ;

(g) contravene any regulation made by the commissioner under section 387 for the use of any such portion of the seashore or place for any such purpose.

389. No person shall :

(a) steep in any tank, reservoir, stream, well or ditch, any animal, vegetable or mineral matter
Prohibition of corruption of water by steeping therein animal or other matter, &c. likely to render the water thereof offensive or dangerous to health ;

(b) whilst suffering from any contagious or loathsome disease, bathe in or near any lake, tank, reservoir, fountain, cistern, duct, stand-pipe, stream or well or on any part of the seashore.

Regulation of factories, trades, &c.

390. (1) No person shall newly establish in any premises any factory, workshop or workplace in which it is intended
Factory, &c., not to be newly established without permission of the commissioner. that steam, water or other mechanical power shall be employed, without the previous written permission of the commissioner.

(2) The commissioner may refuse to give such permission, if he shall be of opinion that the establishment of such factory, workshop or workplace in the proposed position is objectionable by reason of the density of the population in the neighbourhood thereof or will be a nuisance to the inhabitants of the neighbourhood.

391. (1) No person shall :

(a) use or permit to be used any furnace employed for the purpose of any trade or manufacture, which does not, so far as practicable, consume its own smoke.
Furnaces used in trade or manufacture to consume their own smoke.

(b) so negligently use or permit to be used any such furnace as that it shall not, as far as practicable, consume its own smoke.

(2) Nothing in this section shall be deemed to apply to a locomotive engine used for the purpose of traffic upon any railway or for the repair of streets.

392. (1) Whenever it shall appear to the commissioner that any factory, bakehouse, workshop or workplace or any building or place, in which steam, water or other mechanical power is employed, is not kept in a cleanly state or is not ventilated in such a manner as to render harmless, as far as practicable, any gas, vapour, dust or other impurity generated in the course of the work carried on therein, which is a nuisance,

or is so overcrowded while work is carried on as to be dangerous or injurious to the health of the persons employed therein,

or that any engine, mill-gearing, hoist or other machinery therein is so fixed or so insecurely fenced as to be dangerous to life or limb ;

the commissioner may, by written notice, require the owner of such factory, bakehouse, workshop, workplace or other building or place to take such order for putting and maintaining the same in a cleanly state or for ventilating the same, or for preventing the same from being over-crowded, or for preventing danger to life or limb from any engine, mill-gearing, hoist or other machinery therein, as he shall think fit.

(2) Nothing in this section shall be deemed to affect any provision of the Bombay Boiler Inspection Act, 1887, and nothing in this section which relates to the fixing or fencing of any engine, mill-gearing, hoist or other machinery shall apply in any factory to which the provisions of the Indian Factory Act, 1881, are applicable.

393. (1) No person shall, without the written permission of the commissioner, use or employ in any factory or any other place, any steam-whistle or steam-trumpet for the purpose of summoning or dismissing workmen or persons employed.

(2) The commissioner may at any time revoke any permission which he has given for the use of any such instrument as aforesaid, on giving one month's notice to the person using the same :

(3) Provided that nothing in sub-section (2) shall be deemed to require one month's notice to be given by the commissioner, if he suspends or revokes any such permission for any reason specified in sub-section (3) of section 479.

394. (1) No person shall use any premises for any of the purposes hereinbelow mentioned, without or otherwise than in conformity with the terms of a license granted by the commissioner in this behalf, namely :

Certain trades not to be carried on without a license.

- (a) any of the purposes specified in schedule M ;
- (b) any purpose which is, in the opinion of the commissioner, dangerous to life, health or property, or likely to create a nuisance ;
- (c) keeping horses, cattle or other fourfooted animals for sale or hire or for sale of the produce thereof ;
- (d) storing for other than domestic use, or selling, timber, firewood, charcoal, coal, coke, ashes, hay, grass, straw or any other combustible thing.

(2) Every person to whom a license is granted by the commissioner to use any premises for any of the purposes mentioned in sub-section (1) shall keep affixed in a conspicuous part of the said premises a board upon which shall be legibly written in English, and also in either Maráthi, Gujaráthi or Urdu, the following particulars (namely) :

- (e) the licensee's name ;
- (f) the purpose for which and the limitations and conditions subject to which the license is granted ;
- (g) any other details relating to the license or the terms thereof, which the commissioner from time to time thinks fit to require.

(3) Nothing in this section shall be deemed to apply to mills for spinning or weaving cotton, wool, silk or jute.

395. (1) No person engaged in any trade or manufacture specified in schedule M, shall :

Prohibition of corruption of water by chemicals, &c.

- (a) wilfully cause or suffer to be brought, or to flow into any lake, tank, reservoir, cistern, well, duct or other place for water belonging to the corporation or into any drain or pipe communicating therewith, any washing or other substance produced in the course of any such trade or manufacture as aforesaid ;
- (b) wilfully do any act connected with any such trade or manufacture as aforesaid, whereby the water in any such lake, tank, reservoir, cistern, well, duct or other place for water is fouled or corrupted.

(2) The commissioner may, after giving not less than twenty-four hours' previous notice in writing to the owner or to the person who has the management or control of any works, pipes or conduits connected with any such manufacture or trade as aforesaid, lay open and examine the said works, pipes or conduits ;

and if, upon such examination, it appears that sub-section (1) has been contravened by reason of anything contained in or proceeding from the said works, pipes or conduits, the expenses of such laying open and examination and of any measure which the commissioner shall, in his discretion, require to be adopted for the discontinuance of the cause of such contravention, shall be paid by the owner of the said works, pipes or conduits or by the person who has the management or control thereof or through whose neglect or fault the said sub-section has been contravened ;

but if it appear that there has been no contravention of the said sub-section, the said expenses and compensation for any damage occasioned by the said laying open and examination shall be paid by the commissioner.

396. (1) The commissioner may at any time, by day or by night, without notice, enter into or upon any premises used for any of the purposes mentioned in section 394 and upon any premises in which a furnace is employed for the purpose of any trade or manufacture and into any bake house, in order to satisfy himself as to whether any provision of this Act or any by-law made under this Act at the time in force or any condition of any license granted under this Act is being contravened, and as to whether any nuisance is created upon such premises.

(2) No claim shall lie against any person for compensation for any damage necessarily caused by any such entry or by the use of any force necessary for effecting such entry : provided that force shall not be used for effecting an entry, unless when there is reason to believe that an offence is being committed against some provision of this Act or some by-law made under this Act.

397. (1) The commissioner may, by public notice, prohibit the washing of clothes by washermen in the exercise of their calling, except at such places as he shall appoint for this purpose ; and when any such prohibition has been made, no person who is, by calling, a washerman shall wash clothes at any place not appointed for this purpose by the commissioner, except for such person himself or for the owner or occupier of such place.

(2) The commissioner shall provide suitable places for the exercise by washermen of their calling and may require payment of such fees for the use of any such place as shall from time to time be determined by the commissioner, with the approval of the standing committee.

Maintenance and regulation of markets and slaughter-houses.

398. All markets and slaughter-houses which belong to or are maintained by the corporation shall be called "municipal markets" or "municipal slaughter-houses." All other markets and slaughter-houses shall be deemed to be private.

399. (1) The commissioner, when authorized by the corporation in this behalf, may construct, purchase or take on lease any building or land for the purpose of establishing a new municipal market or a new municipal slaughter-house or of extending or improving any existing municipal market or slaughter-house, and may from time to time build and maintain such municipal markets and slaughter-houses and such stalls, shops, sheds, pens and other buildings or conveniences for the use of the persons carrying on trade or business in, or frequenting such municipal markets or slaughter-houses, and provide and maintain in such municipal markets, such buildings, places, machines, weights, scales and measures for weighing and measuring goods sold therein, as he shall think fit.

(2) Municipal slaughter-houses may be situate within or, with the sanction of Government, without the city.

400. The commissioner may, with the sanction of the corporation and of Government, at any time close any municipal market or slaughter-house; and the premises occupied for any market or slaughter-house so closed may be disposed of as the property of the corporation.

401. (1) No person shall, without a license from the commissioner, sell or expose for sale any animal or article in any municipal market.

(2) Any person contravening this section may be summarily removed by the commissioner or by any municipal officer or servant.

402. (1) The corporation shall from time to time determine whether the establishment of new private markets shall be permitted in the city or in any specified portion of the city.

(2) No person shall establish a new private market for the sale of, or for the purpose of exposing for sale, animals intended for human food or any other article of human food, except with the sanction of the commissioner, who shall be guided in giving such sanction by the decisions of the corporation at the time in force under sub-section (1).

(3) When the establishment of a new private market has been so sanctioned, the commissioner shall cause a notice of such sanction to be affixed in the English, Maráthi, Gujaráti and Urdu languages on some conspicuous spot on or near the building or place where such market is to be held.

403. (1) No person shall, without or otherwise than in conformity with the terms of a license granted by the commissioner in this behalf :
 Private markets not to be kept open without a license.

- (a) keep open a private market ;
- (b) use any place in the city as a slaughter-house or for the slaughtering of any animal intended for human food ;
- (c) use any place without the city, whether as a slaughter-house or otherwise, for the slaughtering of any animal intended for human food to be consumed in the city :

(2) Provided that :

- (d) the commissioner shall not refuse, cancel or suspend any license for keeping open a private market for any cause other than the failure of the owner thereof to comply with some provision of this Act, or with some regulation framed under section 406, or with some by-law made under this Act at the time in force ; and shall not cancel or suspend any such license without the approval of the standing committee ;
- (e) nothing in this section shall be deemed to prevent the commissioner from granting written permission for the slaughter of an animal in any place that he thinks fit, on the occasion of any festival or ceremony or under special circumstances.

(3) When the commissioner has refused, cancelled or suspended any license to keep open a private market, he shall cause a notice of his having so done to be affixed in the English, Maráthi, Gujaráti and Urdu languages on some conspicuous spot on or near the building or place where such market has been held.

404. No person who knows that any private market has been established without the sanction of the commissioner or is kept open after a license for keeping the same open has been refused, cancelled or suspended by the commissioner, shall sell or expose for sale therein any animal or article of food.
 Prohibition of sale in un-
 authorised private markets.

Provision for requiring private market-buildings and slaughter-houses to be properly paved and drained.

405. The commissioner may, by written notice, require the owner, farmer or occupier of any private market or slaughter-house, to cause :

- (a) the whole or any portion of the floor of the market-building, market-place or slaughter-house to be paved with dressed stone or other suitable material ;
- (b) such drains to be made in or from the market-building, market-place or slaughter-house, of such material, size and description, at such level and with such outfall as to the commissioner may appear necessary.

406. The commissioner may, with the approval of the standing committee, from time to time make regulations, not inconsistent with any provision of this Act or of any by-law made under this Act at the time in force :

Regulations to be framed for markets and slaughter-houses.

- (a) for preventing nuisances or obstruction in any market-building, market-place or slaughter-house or in the approaches thereto ;
- (b) fixing the days and the hours on and during which any market or slaughter-house may be held or kept open for use ;
- (c) for keeping every market-building, market-place and slaughter-house in a cleanly and proper state and for removing filth and refuse therefrom ;
- (d) requiring that any market-building, market-place or slaughter-house be properly ventilated and be provided with a sufficient supply of water ;
- (e) requiring that in market-buildings and market-places passages be provided between the stalls of a sufficient width for the convenient use of the public.

407. The commissioner may :

- (a) charge for the occupation or use of any stall, shop, standing, shed or pen in a municipal market or slaughter-house, and for the right to expose goods for sale in a municipal market and for weighing and measuring goods sold in any such market and for the right to slaughter animals in any municipal slaughter-house, such stallages, rents and fees as shall from time to time be fixed by him, with the approval of the standing committee, in this behalf ; or

Levy of stallages, rents and fees in municipal markets and slaughter-houses.

- (b) with the approval of the standing committee, farm the stallages, rents and fees leviable as aforesaid or any portion thereof, for any period not exceeding one year at a time ; or
- (c) put up to public auction, or, with the approval of the standing committee, dispose of, by private sale, the privilege of occupying or using any stall, shop, standing, shed or pen in a municipal market or slaughter-house for such term and on such conditions as he shall think fit.

408. (1) A printed copy of the regulations and of the table of stallages, rents and fees, if any, in force in any market or slaughter-house under the two last preceding sections, in the English, Maráthi, Gujaráti and Urdu languages, shall be affixed in some conspicuous spot in the market-building, market-place or slaughter-house.

Regulations and table of stallage-rents to be posted up in markets and slaughter-houses.

(2) No person shall, without authority, destroy, pull down, injure or deface any copy of any regulation or table so affixed.

409. The commissioner may expel from any municipal market or slaughter-house any person, who or whose servant has been convicted of contravening any by-law made under this Act or any regulation made under section 406 at the time in force in such market or slaughter-house and may prevent such person, by himself or his servants, further carrying on any trade or business in such market or slaughter-house or occupying any stall, shop, standing, shed, pen or other place therein and may determine any lease or tenure which such person may have in any such stall, shop, standing, shed, pen or place.

Power to expel persons contravening by-laws or regulations.

Sale of articles of food outside of markets.

410. (1) Except as hereinafter provided, no person shall, without a license from the commissioner, sell or expose for sale any fourfooted animal or any meat or fish intended for human food, in any place other than a municipal or private market :

Prohibition of sale of animals, &c., except in a market.

(2) Provided that nothing in sub-section (1) shall apply to fresh fish sold from, or exposed for sale in a vessel in which it has been brought direct to the seashore after being caught at sea.

Licensing of butchers, &c.

411. No person shall, without or otherwise than in conformity with the terms of a license granted by the commissioner in this behalf :

Butchers and persons who sell the flesh of animals to be licensed.

- (a) carry on within the city; or at any municipal slaughter-house, the trade of a butcher;
- (b) use any place in the city for the sale of the flesh of any animal intended for human food, or any place without the city for the sale of such flesh for consumption in the city.

412. (1) No person shall, without the written permission of the commissioner, bring into the city any cattle, sheep, goat or swine intended for human food or the flesh of any such animal, which has been slaughtered at any slaughter-house or place not maintained or licensed under this Act.

(2) Any animal or flesh brought into the city in contravention of this section may be seized by the commissioner or by any municipal officer or servant and be sold or otherwise disposed of as the commissioner shall direct. The proceeds, if any, shall belong to the corporation.

(3) Nothing in this section shall be deemed to apply to cured or preserved meat.

Inspection of places of sale, &c.,

413. (1) If the commissioner shall have reason to believe that any animal intended for human food is being slaughtered, or that the flesh of any such animal is being sold or exposed for sale, in any place or manner not duly authorized under the provisions of this Act, the commissioner may at any time by day or by night, without notice, enter such place for the purpose of satisfying himself as to whether any provision of this Act or of any by-law made under this Act at the time in force is being contravened thereat.

(2) No claim shall lie against any person for compensation for any damage necessarily caused by any such entry or by the use of any force necessary for effecting such entry.

414. It shall be the duty of the commissioner to make provision for the constant and vigilant inspection of animals, carcasses, meat, poultry, game, flesh, fish, fruit, vegetables, corn, bread, flour, milk, ghee, butter and any other article exposed or hawked about for sale or deposited in or brought to any place for the purpose of sale or of preparation for sale and intended for human food or for medicine, the proof that the same was not exposed or hawked about or deposited or brought for any such purpose or was not intended for human food or for medicine resting with the party charged.

415. (1) The commissioner may at all reasonable times inspect and examine any such animal or article as aforesaid and any utensil or vessel used for preparing, manufacturing or containing the same.

Unwholesome articles, &c., to be seized.

(2) If any such animal or article appears to the commissioner to be diseased or unsound or unwholesome or unfit for human food or for medicine, as the case may be, or is not what it is represented to be, or if any such utensil or vessel is of such kind or in such state as to render any article prepared, manufactured or contained therein unwholesome or unfit for human food or for medicine, as the case may be,

he may seize and carry away such animal, article, utensil or vessel, in order that the same may be dealt with as hereinafter provided.

Explanation.—

416. If any meat, fish, vegetable or other article of a perishable nature be seized under the last preceding section and the same is, in the opinion of the commissioner, diseased, unsound, unwholesome or unfit for human food or for medicine, as the case may be,

Disposal of perishable articles seized under section 415.

the commissioner shall cause the same to be forthwith destroyed in such manner as to prevent its being again exposed for sale or used for human food or for medicine, and the expenses thereof shall be paid by the person in whose possession such article was at the time of its seizure.

Disposal of animals and articles of a non-perishable nature, seized under section 415.

417. (1) Any animal and any article not of a perishable nature and any utensil or vessel seized under section 415 shall be forthwith taken before a presidency magistrate.

(2) If it shall appear to such magistrate that any such animal or article is diseased, unsound or unwholesome or unfit for human food, or for medicine, as the case may be, or is not what it was represented to be or that such utensil or vessel is of such kind or in such state as aforesaid,

he shall cause the same to be destroyed, at the charge of the person in whose possession it was at the time of its seizure, in such manner as to prevent the same being again exposed or hawked about for sale or used for human food or for medicine, or for the preparation or manufacture of, or for containing any such article as aforesaid.

417A ³ *Provided* ⁴ *417C* ⁴ *Weights and Measures.*

418. (1) The commissioner shall from time to time provide such local standards of measure and weight as he deems requisite for the purpose of verification of weights and measures in use in the city and

Provision of standards of local weights and measures.

S. 418.—When Act II. of 1889 comes into force, the commissioner will, under S. 7, be required to keep such certified measures of the standard yard, foot and inch as are mentioned in S. 5, of that Act.

shall make such arrangement as he shall think fit for the safe keeping of the said standards.

(2) The commissioner shall also provide from time to time proper means for verifying weights and measures by comparison with the said standards and for stamping the weights and measures so verified.

Verification and stamping of weights and measures by municipal officer.

419. (1) The commissioner shall from time to time fix the times and places at which some municipal officer appointed by him in this behalf shall attend for the purpose of the verification of weights and measures.

(2) The municipal officer so appointed shall attend, with the local standards in his custody, at each time and place fixed and shall examine every measure or weight which is of the same denomination as one of such standards and is brought to him for the purpose of verification and compare the same with that standard and, if he find the same correct, shall stamp it with a stamp of verification in such manner as best to prevent fraud.

(3) The said municipal officer shall enter in a book kept by him minutes of every such verification and give, if required, a certificate under his hand of every such stamping.

420. There shall be payable to the corporation in respect of the verification and stamping of weights and measures by a municipal officer as aforesaid such fees as the commissioner, with the approval of the corporation, from time to time fixes in this behalf.

Prevention of spread of dangerous diseases.

421. Every medical practitioner who treats or becomes cognizant of the existence of any dangerous disease in any private or public dwelling, other than a public hospital, shall give information of the same with the least practicable delay to the executive health officer. The said information shall be communicated in such form and with such details as the executive health officer, with the consent of the commissioner, may from time to time require.

Any place may at any time be inspected for purpose of preventing spread of dangerous disease.

422. The commissioner may at any time, by day or by night, without notice, or after giving such notice of his intention as shall, in the circumstances, appear to him to be reasonable, inspect any place in which any dangerous disease is reputed or suspected to exist, and take such measures as he shall think fit to prevent the spread of the said disease beyond such place.

423. (1) If it shall appear to the commissioner that the water in any well, tank or other place is likely, if used for drinking, to engender or cause the spread of any dangerous disease, he may, by public notice, prohibit the removal or use of the said water for the purpose of drinking.

Prohibition of use for drinking of water likely to cause dangerous disease.

(2) No person shall remove or use for the purpose of drinking any water in respect of which any such public notice has been issued.

424. (1) The commissioner or any police officer empowered by him in this behalf may, on a certificate signed by the executive health officer or by any duly qualified medical practitioner, direct or cause the removal of any person who is, in the opinion of such executive health officer or other medical practitioner, without proper lodging or accommodation or who is lodged in a building occupied by more than one family and who is suffering from a dangerous disease, to any hospital or place at which patients suffering from the said disease are received for medical treatment.

Commissioner may order removal of patients to hospital.

(2) The person, if any, who has charge of a person in respect of whom an order is made under sub-section (1) shall obey such order.

425. (1) If the commissioner is of opinion that the cleansing or disinfecting of a building or of a part of a building or of any article therein likely to retain infection, would tend to prevent or check the spread of any dangerous disease, he may, by written notice, require the owner or occupier of such building to cleanse or disinfect such building or part thereof or article therein and, if it shall appear to the commissioner necessary, to vacate the said building for such time as shall be prescribed in the said notice :

Disinfection of buildings, &c.

(2) Provided that if, in the opinion of the commissioner, the owner or occupier is from poverty or other cause unable effectually to comply with such requisition, the commissioner may cause the building or part of the building or article likely to retain infection to be cleansed or disinfected and defray the cost of so doing.

426. (1) If the commissioner is of opinion that the destruction of any hut or shed is necessary to prevent the spread of any dangerous disease, he may, after giving, to the owner or occupier of such hut or shed, such previous notice of his intention as may in the circumstances of the case appear to him reasonable, take measures for having such hut or shed and all the materials thereof destroyed.

Destruction of huts and sheds, when necessary.

(2) Compensation may be paid by the commissioner, in any case which he thinks fit, to any person who sustains substantial loss by the destruction of any such hut or shed; but except as so allowed by the commissioner, no claim for compensation shall lie for any loss or damage caused by any exercise of the power conferred by this section.

427. (1) The commissioner may provide a place, with all necessary apparatus and attendance, for the disinfection of clothing, bedding or other articles which have become infected and, in his discretion, may have articles brought to such place for disinfection, disinfected on payment of such fees as he shall from time to time fix, with the approval of the standing committee, in this behalf, or, in any case in which he thinks fit, free of charge.

(2) The commissioner may, from time to time, by public notice, appoint a place at which clothing, bedding, or other articles which have been exposed to infection from any dangerous disease may be washed; and no person shall wash any such article at any place not so appointed, without having previously disinfected the same.

(3) The commissioner may direct the disinfection or destruction of bedding, clothing, or other articles likely to retain infection.

(4) The commissioner may, in his discretion, give compensation for any article destroyed under sub-section (3).

428. (1) No person who is suffering from a dangerous disease shall enter a public conveyance without previously notifying to the owner, driver or person in charge of such conveyance that he is so suffering.

(2) Notwithstanding anything contained in any Act relating to public conveyances for the time being in force, no owner or driver or person in charge of a public conveyance shall be bound to carry any person suffering as aforesaid in such conveyance, unless payment or tender of sufficient compensation for the loss and expenses he must incur in disinfecting such conveyance is first of all made to him.

429. The commissioner, with the sanction of the corporation, may provide and maintain suitable conveyances for the free carriage of persons suffering from any dangerous disease; and when such conveyances

have been provided, it shall not be lawful to convey any such person by any other public conveyance.

Provisions as to carriage of persons suffering from dangerous disease in public conveyances.

430. (1) No person who is suffering from a dangerous disease shall :

(a) without proper precautions against spreading such disease, cause or suffer himself to be carried in a public conveyance ;

(b) cause or suffer himself to be carried in a public conveyance contrary to the provision of the last preceding section.

(2) No person shall go in company with, or take charge of, any person suffering as aforesaid, who causes or permits himself to be carried in a public conveyance in contravention of sub-section (1).

(3) No owner, or driver, or person in charge of a public conveyance shall knowingly carry or permit to be carried in such conveyance any person suffering as aforesaid, in contravention of the said sub-section.

Public conveyance which has carried a person suffering from dangerous disease to be disinfected.

431. The owner, driver or person in charge of a public conveyance in which any person suffering as aforesaid has been carried shall immediately provide for the disinfection of the same.

432. (1) No person shall, without previous disinfection of the same, give, lend, sell, transmit or otherwise dispose

Infected articles not to be transmitted, &c., without previous disinfection.

of any article which he knows or has reason to know has been exposed to infection from any dangerous disease.

(2) Nothing in this section shall be deemed to apply to a person who transmits, with proper precautions, any such article for the purpose of having the same disinfected.

433. (1) No person shall let a building or any part of a building, in which he knows or has reason to know that

Infected building not to be let without being first disinfected.

a person has been suffering from a dangerous disease, without first having such building or part thereof and every article therein likely to retain infection disinfected, to the satisfaction of the executive health officer or of some duly qualified medical practitioner, as testified by such officer's or medical practitioner's certificate.

(2) For the purpose of this section, the keeper of a hotel or inn shall be deemed to let part of his building to any person accommodated in such hotel or inn.

Special sanitary measures.

434. (1) In the event of the city being at any time visited or threatened with an outbreak of any dangerous disease, or in the event of any infectious disease breaking out or being likely to be introduced into the city amongst cattle—including under this expression sheep and goats,—

Commissioner may take special measures on outbreak of any dangerous disease.

the commissioner, if he thinks the ordinary provisions of this Act or of any other law at the time in force are insufficient for the purpose, may, with the sanction of Government :

(a) take such special measures, and

(b) by public notice, prescribe such temporary regulations to be observed by the public or by any person or class of persons,

as he shall deem necessary to prevent the outbreak of such disease or the spread thereof.

(2) The commissioner shall forthwith report to the corporation any measures taken and any regulations prescribed by him under sub-section (1).

Disposal of the dead.

435. Every owner or person having the control of a place used for burying, burning or otherwise disposing of the dead shall cause the same to be registered in a register which shall be kept by some municipal officer charged by the commissioner with this duty, and shall deposit in the municipal office at the time of registration a plan of the said place, showing the extent and boundaries thereof, bearing the signature of a licensed surveyor in token of its having been prepared by or under the supervision of such surveyor.

Places for disposal of the dead to be registered.

436. If the existing places for the disposal of the dead shall at any time appear to be insufficient, or if any such place is closed under the provisions of section 438, the commissioner shall, with the sanction of the corporation, provide other fit and convenient places for the said purpose, either within or without the city, and shall cause the same to be registered in the register kept under section 435 and shall deposit in the municipal office, at the time of registration of each place so provided, a plan thereof showing the extent and boundaries of the same and bearing the signature of the municipal executive engineer.

Provision of new places for disposal of the dead.

437. No place which has never previously been lawfully used as a place for the disposal of the dead and registered as such, shall be opened by any person for the said purpose without the written permission of the commissioner, who, with the approval of the corporation, may grant or withhold such permission.

New places for disposal of the dead not to be opened without permission of commissioner.

438. (1) If, from information furnished by competent persons and after personal inspection, the commissioner shall at any time be of opinion :

Governor in Council may direct the closing of any place for the disposal of the dead.

(a) that any place of public worship is or is likely to become injurious to health by reason of the state of the vaults or graves within the walls of or underneath the same, or in any church-yard or burial-ground adjacent thereto, or

(b) that any other place used for the disposal of the dead is in such a state as to be or to be likely to become injurious to health,

he may submit his said opinion, with the reasons therefor, to the corporation, who shall forward the same, with their opinion, for the consideration of the Governor in Council.

(2) Upon receipt of such opinions, the Governor in Council, after such further inquiry, if any, as he shall deem fit to cause to be made, may, by notification published in the *Bombay Government Gazette* and in the local newspapers, direct that such place of public worship or other place for the disposal of the dead be no longer used for the disposal of the dead. Every order so made shall be noted in the register kept under section 435.

(3) On the expiration of two months from the date of any such order of the Governor in Council, the place to which the same relates shall be closed for the disposal of the dead.

(4) A copy of the said notification, with a translation thereof in the Maráthi, Gujaráti and Urdu languages, shall be affixed on a conspicuous spot on or near the place to which the same relates, unless such place be a place of public worship.

439. (1) If, after personal inspection, the commissioner shall at any time be of opinion that any place formerly used for the disposal of the dead which has been closed under the provisions of the last preceding section or under any other law or authority, has, by lapse of time, become no longer injurious to health and may, without risk of

Governor in Council may sanction the re-opening of places which have been closed for the disposal of the dead.

danger, be again used for the said purpose, he may submit his said opinion, with the reasons therefor, to the corporation, who shall forward the same, with their opinion, for the consideration of the Governor in Council.

(2) Upon receipt of such opinions, the Governor in Council, after such further inquiry, if any, as he shall deem fit to cause to be made, may, by notification published as aforesaid, direct that such place be re-opened for the disposal of the dead. Every order so made shall be noted in the register kept under section 435.

440. (1) No person shall, without the written permission of the commissioner under sub-section (2):

Burials within places of worship and exhumations not to be made without the permission of the commissioner.

- (a) make any vault or grave or interment within any wall, or underneath any passage, porch, portico, plinth or verandah of any place of worship;
- (b) make any interment or otherwise dispose of any corpse in any place which is closed for the disposal of the dead under section 438;
- (c) build, dig or cause to be built or dug, any grave or vault, or in any way dispose of, or suffer or permit to be disposed of, any corpse at any place which is not registered in the register kept under section 435;
- (d) exhume any body, except under the provisions of section 176 of the Code of Criminal Procedure, 1882, or of any other law for the time being in force, from any place for the disposal of the dead.

(2) The commissioner may in special cases grant permission for any of the purposes aforesaid, subject to such general or special orders as the Governor in Council may from time to time make in this behalf.

(3) An offence against this section shall be deemed to be a cognizable offence within the meaning of sections 149, 150 and 151 of the Code of Criminal Procedure, 1882.

441. No person shall:

- (a) retain a corpse on any premises, without burning, burying or otherwise lawfully disposing of the same, for so long a time after death as to create a nuisance;

S. 440 (d).—A Coroner can order a body to be disinterred in certain cases. See S. 11 of Act IV. of 1871.

- (b) carry a corpse or part of a corpse along any street without having and keeping the same decently covered, or without taking such precautions to prevent risk of infection or injury to the public health as the commissioner may, by public notice, from time to time think fit to require;
- (c) except when no other route is available, carry a corpse or part of a corpse along any street, along which the carrying of corpses is prohibited by a public notice issued by the commissioner in this behalf;
- (d) remove a corpse or part of a corpse which has been kept or used for purposes of dissection, otherwise than in a closed receptacle or vehicle;
- (e) whilst conveying a corpse or part of a corpse, place or leave the same on or near any street, without urgent necessity;
- (f) bury or cause to be buried any corpse or part of a corpse, in a grave or vault or otherwise, in such manner as that the surface of the coffin or, when no coffin is used, of the corpse or part of a corpse, shall be at a less depth than six feet from the surface of the ground;
- (g) build or dig or cause to be built or dug, any grave or vault in any burial-ground at a less distance than two feet from the margin of any other grave or vault;
- (h) build or dig or cause to be built or dug, a grave or vault in any burial-ground in any line not marked out for this purpose by or under the order of the commissioner;
- (j) without the written permission of the commissioner, re-open for the interment of a corpse or of any part of a corpse, a grave or vault already occupied;
- (k) after bringing or causing to be brought to a burning-ground any corpse or part of a corpse, fail to burn or cause the same to be burnt within six hours from the time of the arrival thereof at such ground;
- (l) when burning or causing to be burnt any corpse or part of a corpse, permit the same or any portion thereof to remain without being completely reduced to ashes, or permit any cloth or other article used for the conveyance or burning of such corpse or part of a corpse, to be removed or to remain on or near the place of burning, without its being completely reduced to ashes.

CHAPTER XVI.

VITAL STATISTICS.

Registration of births and deaths.

442. For the purpose of registering births and deaths, the commissioner shall divide the city into such and so many districts and sub-districts as he shall from time to time think fit; and a municipal officer shall be registrar of births and deaths of each such district.

443. (1) Every registrar shall reside within the district of which he is registrar and shall cause his name, together with the words "Registrar of Births and Deaths for the district of" to be affixed in some conspicuous place at or near the outer door of his place of abode.

(2) A list showing the name and place of abode of every registrar in the city shall be kept at the municipal office and shall be open at all reasonable times to public inspection free of charge.

444. The commissioner shall provide and supply to the registrars a sufficient number of register-books of births and of register-books of deaths for the registration of the particulars specified in schedules N and O, respectively; and the pages of each of the said books shall be numbered progressively from the beginning to the end thereof.

445. (1) Each registrar shall inform himself carefully of every birth and death which shall happen in his district and of the particulars concerning the same required to be registered according to the forms in the said schedules and shall, as soon after each such birth or death as conveniently may be, register the same in the book supplied for this purpose by the commissioner, without making any charge or demanding or receiving any fee or reward for so doing other than his remuneration as a municipal officer.

(2) Other municipal officers, besides the registrars, may be appointed with the duty of informing themselves of every birth or of every death or of every birth and every death in the district to which they are respectively appointed and of the particulars concerning the same required to be registered, and of submitting such information to the registrar of the said district or to such other person as the commissioner directs.

446. (1) It shall be the duty of the father and mother of every child born in the city and, in default of the father and mother, of the occupier of the premises in which to his knowledge the child is born and of each person present at the birth and of the person having charge of the child, to give, to the best of his knowledge and belief, to the registrar or other municipal officer appointed under section 445, within seven days after such birth, information of the particulars required to be registered concerning such birth :

Information of birth to be given within seven days.

(2) Provided that, in the case of an illegitimate child, no person shall, as father of such child, be required to give information under this Act concerning the birth of such child, and the registrar shall not enter in the register the name of any person as father of such child, unless at the joint request of the mother and of the person acknowledging himself to be the father of such child, and such person shall in such case sign the register together with the mother.

Saving for father of illegitimate child.

447. In case any new-born child is found exposed, it shall be the duty of any person finding such child and of any person in whose charge such child may be placed, to give, to the best of his knowledge and belief, to the registrar or other municipal officer aforesaid, within seven days after the finding of such child, such information of the particulars required to be registered concerning the birth of such child as the informant possesses.

Information respecting finding of new-born child to be given.

448. (1) For every place for the disposal of the dead registered in the register kept under section 435, a municipal officer shall be appointed, whose duty it shall be to receive information of the particulars required to be registered concerning the death of every person whose corpse is disposed of at such place.

Officers to be appointed to receive information of deaths at places for disposal of the dead.

(2) If the commissioner shall not think fit to require the municipal officer so appointed to be in constant attendance at any place for the disposal of the dead for which he is so appointed, there shall be affixed to a conspicuous part of the entrance to such place a notice specifying the name of the officer so appointed for the said place and the place where he may be found.

449. (1) It shall be the duty of the nearest relatives of any person dying in the city present at the death or in attendance during the last illness of the deceased and, in default of such relatives, of each person present at the death and of the occupier of the

Information of death to be given at the time when the corpse of the deceased is disposed of.

premises in which, to his knowledge, the death took place and, in default of the persons hereinbefore in this section mentioned, of each inmate of such premises and of the undertaker or other person causing the corpse of the deceased person to be disposed of, to give, to the best of his knowledge and belief, to the officer appointed under the last preceding section, information of the particulars required to be registered concerning such death.

(2) The said information shall be given at or about the time that the corpse of the deceased person is disposed of and it shall be given in writing, if the informant can write and, otherwise, orally, and the informant shall make known to the officer aforesaid his name, designation and place of abode and shall attest the correctness of the information which he gives, to the best of his knowledge and belief, by his signature or mark.

450. (1) In the case of a person who has been attended in his last illness by a duly qualified medical practitioner, that practitioner shall sign and forward to the commissioner a certificate of the cause of such person's death, in the form of schedule P, or in such other form as shall from time to time be prescribed by the commissioner in this behalf, and the cause of death as stated in such certificate shall be entered in the register, together with the name of the certifying medical practitioner.

Medical practitioner who attended a deceased person to certify the cause of his death.

(2) The commissioner shall provide printed forms of the said certificates and any duly qualified medical practitioner resident in the city shall be supplied, on application, with such forms, free of charge.

451. (1) The information concerning deaths received by every officer appointed under section 448 shall be entered by him in a register-sheet, which shall contain the particulars specified in schedule O, and shall be forwarded, at such intervals as shall be prescribed by the commissioner, through the registrar of the district, to the municipal office.

Preparation of register-books of deaths and of mortality returns, &c.

(2) From the said register-sheets and from the certificates furnished to him under section 450, the commissioner shall cause the register-books of deaths to be prepared and shall have prepared and published such tabular returns and statements as shall appear to him to be useful for sanitary or other purposes.

452. (1) Any clerical error which may at any time be discovered in a register of births or in a register of deaths may be corrected by any person authorized in that behalf by the commissioner.

Correction of errors in registers of births or deaths.

(2) An error of fact or substance in any such register may be corrected by any person authorized as aforesaid by entry in the margin, without any alteration of the original entry, upon production to the commissioner by the person requiring such error to be corrected, of a declaration on oath setting forth the nature of the error and the true facts of the case, made before a magistrate by two persons required by this Act to give information concerning the birth or death with reference to which the error has been made or, in default of such persons, by two credible persons having knowledge of the case, and certified by such magistrate to have been made in his presence.

(3) Except as aforesaid, no alteration shall be made in any such register.

453. (1) When the birth of any child has been registered and the name, if any, by which it was registered is altered or, if it was registered without a name, when a name is given to it, the parent or guardian of such child or other person procuring such name to be altered or given may, within twelve months next after the registration of the birth, deliver to the registrar such certificate as hereinafter mentioned, and the registrar, upon the receipt of that certificate, shall, without any erasure of the original entry, forthwith enter in the register-book the name mentioned in the certificate as having been given to the child.

Registration of name of child
or of alteration of name.

(2) The certificate shall be in the form of schedule Q, or as near thereto as circumstances admit, and, in the case of a christian, shall be signed by the minister or person who performed the rite of baptism upon which the name was given or altered, or, if the child is not baptized or is not a christian, shall be signed by the father, mother or guardian of the child or other person procuring the name of the child to be given or altered.

(3) Every minister or person who performs the rite of baptism shall deliver the certificate required by this section on demand, on payment of a fee not exceeding one rupee.

Taking of a census.

454. At such time and in such manner as shall be directed from time to time by the commissioner, with the sanction of the corporation and of Government, an enumeration shall be made of the persons who at the time of making such enumeration shall be within the city: Provided always that, one clear month previous to such enumeration being commenced, notice of the intention to make the same, with the date or dates upon or within which it is intended to be made, and all other necessary particulars, shall be given by advertisement in the *Bombay Government Gazette* and in the local newspapers.

Enumeration of inhabitants.

455. The commissioner shall superintend the taking of such enumeration, and shall appoint such enumerators or other subordinate officers and make such arrangements generally as may seem to him necessary for the purpose of such enumeration.

Commissioner to superintend the enumeration.

456. Each enumerator or other subordinate officer appointed under the last preceding section shall, agreeably to his instructions, leave at each building or place of residence within his district, four days at least before the time appointed for the collection of the completed returns or census, a blank schedule or return, of such form and containing such particulars as Government may approve, to be duly filled up and signed by the owner, tenant, or principal occupant of the said building or place of residence.

Delivery of blank schedules and returns.

457. (1) Every person at whose building or place of residence any such blank schedule or return is left shall correctly fill up the same and affix his signature thereto and return it, when called upon so to do, to the enumerator or other subordinate officer aforesaid;

Obligation to fill up blank schedules and returns.

or, if such person is unable to write, he shall furnish to an enumerator, when called upon so to do, the information required for correctly filling up such schedule or return.

(2) Any person who fails to comply with any provision of subsection (1) may be detained in custody until he complies therewith or the requisite information is otherwise obtained.

(3) It shall be the duty of an enumerator, if so required by any person who is unable to write, to fill up any such schedule or return as aforesaid from information supplied by such person.

458. If any enumerator or other subordinate officer employed in the collection of such schedules or returns shall find any of the same defective or in any respect improperly filled in, he may return the same to the occupant of the building or residence to which the same relates, together with a written notice requiring that the same be duly filled in or amended within a period of forty-eight hours.

Occupier to amend returns, if found defective.

459. (1) Any military or naval officer or any officer of the Bombay city police, or any master or person in charge of a merchant vessel, or nacoda, or tindal of a vessel or boat, or any person in charge of a lunatic asylum, hospital, or prison, or of any public or private charitable or scholastic institution, or any keeper of a hotel or lodging-house, shall, if required, act as an enumerator for the purpose of taking

Military, naval and police officers, and certain others, if required, to act as enumerators.

account of persons under his command or charge, or abiding in any building in his possession, charge or control, on the night immediately preceding the day to be appointed for the making of such enumeration.

(2) Every person so required to act as an enumerator shall receive and conform to all instructions in writing which may be issued to him by the commissioner in that behalf.

460. The commissioner shall obtain, by such means as shall appear to him best adapted for the purpose and as shall be sanctioned by Government, returns of the particulars required for the purpose of the census with respect to all houseless persons, and all persons who during the said night preceding the day to be appointed for the making of such enumeration were on out-door night-duty, or for any other reasons were not abiding in any building, of which account is to be taken by the enumerators.

CHAPTER XVII.

BY-LAWS.

461. The corporation may from time to time make by-laws, not inconsistent with this Act, with respect to the following matters, (namely) :—

- (a) regulating, in any particular not specifically provided for in this Act, the construction, maintenance and control of drains, ventilation-shafts or pipes, cesspools, water-closets, privies, latrines, urinals, drainage-works of every description, whether belonging to the corporation or to other persons, municipal water-works, private communication-pipes and public streets ;
- (b) regulating all matters and things connected with the supply and use of water ;
- (c) the structure of walls, foundations, roofs and chimneys of new buildings, for securing stability and the prevention of fires and for purposes of health ;
- (d) the provision and maintenance of sufficient open space, either external or internal, about buildings to secure a free circulation of air and of other means for the adequate ventilation of buildings ;
- (e) the provision and maintenance of house-gullies ;
- (f) the control and supervision of all premises used for any of the purposes mentioned in section 394 and of all trades and manufactures carried on therein ;

- (g) the inspection of milch-cattle and prescribing and regulating the construction, dimensions, ventilation, lighting, cleansing, drainage and water-supply of dairies and cattle-sheds in the occupation of persons following the trade of dairymen or milksellers ;
- (h) securing the cleanliness of milk-stores, milk-shops and milk-vessels used by such persons for containing milk ;
- (j) requiring notice to be given whenever any milch-animal is affected with any contagious disease and prescribing precautions to be taken for protecting milch-cattle and milk against infection or contamination ;
- (k) securing the efficient inspection of markets and slaughter-houses and of shops in which articles intended for human food are kept or sold ;
- (l) the control and supervision of butchers carrying on business within the city or at a municipal slaughter-house without the city ;
- (m) regulating the use of any municipal market-building, market-place or slaughter-house or any part thereof ;
- (n) controlling and regulating the sanitary condition of markets and slaughter-houses, and preventing the exercise of cruelty therein ;
- (o) preventing the use in any market of false or defective weights, scales or measures and publishing a price current ;
- (p) regulating the disposal of the dead and the maintenance of all places for the disposal of the dead in good order and in a safe sanitary condition, due regard being had to the religious usages of the several classes of the community ;
- (q) facilitating and securing complete and accurate registration of births and deaths ;
- (r) the registration of marriages ;
- (s) facilitating, when requisite, the taking of a census and securing accurate returns ;
- (t) regulating the delegation of the powers and duties of the standing committee to sub-committees ;
- (u) assigning the functions of the Joint Schools' Committee under sub-section (10) of section 39, regulating the exercise by the said committee of its functions so assigned and of the functions assigned to it under sub-section (9) of the said section, and regulating the administration by the said committee of the school-fund under sub-section (7) of the said section ;

(r) determining the constitution, powers and duties of any committee which the corporation may appoint under section 40 or 41 ;

(w) carrying out generally the provisions and intentions of this Act.

462. In making a by-law under the last preceding section, the corporation may provide that a breach of it shall be punishable with fine which may extend to twenty rupees and, in the case of a continuing breach, with fine which may extend to ten rupees for every day after conviction for the first breach or after receipt of written notice from the commissioner to discontinue the breach, during which the breach continues.

Punishment may be imposed for breach of by-laws.

463. No by-law, made under either of the two last preceding sections, shall have any validity, unless and until it is confirmed by Government.

By-laws to be confirmed by Government.

464. It shall be the duty of the commissioner from time to time to lay before the corporation for their consideration a draft of any by-law which he shall think necessary or desirable for the furtherance of any purpose of this Act.

Commissioner to lay draft by laws before the corporation for their consideration.

465. (1) No by-law shall be finally approved by the corporation, unless notice of the intention of the corporation to take the same into their consideration has been given by advertisement in the *Bombay Government Gazette* and in the local newspapers six weeks at least before the day of the meeting at which the corporation finally consider such by-law.

Hearing by corporation of objections to proposed by-laws.

(2) The corporation shall, before approving the by-law, receive and consider any objection or suggestion which may be made in writing by any person with respect thereto before the day of the said meeting ; and any person desiring to object to a by-law, on giving written notice to the president of the corporation, not less than ten days before the day of the said meeting, of the nature of his said objection, may, by himself or his counsel, attorney or agent, be heard by the corporation thereon at the said meeting, but not so as that more than one person be heard on the same matter of objection.

466. (1) For one month at least before the day of the meeting at which the corporation finally consider a by-law, a printed copy of such by-law shall be kept at the chief municipal office for public inspection, and every person shall be permitted at any reasonable time to peruse the same, free of charge.

Proposed by-law to be open to public inspection.

(2) Printed copies of the proposed by-law shall also be delivered to any person requiring the same on payment of such fee not exceeding one rupee for each copy as shall be prescribed by the commissioner.

467. When any by-law has been confirmed by Government, it shall be published in the *Bombay Government Gazette*, and thereupon shall have the force of law.

By-laws confirmed by Government to be published in the *Bombay Government Gazette*.

468. (1) The commissioner shall cause all by-laws from time to time in force to be printed and shall cause printed copies thereof to be delivered to any person requiring the same, on payment of a fee of two annas for each copy.

Printed copies of by-laws to be kept on sale.

(2) Notice of the fact of copies of the by-laws being obtainable at the said price and of the place where and the person from whom the same are obtainable shall be given by the commissioner from time to time by advertisement in the local newspapers.

(3) Boards, with the by-laws printed thereon or with printed copies of the by-laws affixed thereto, shall be hung or affixed in some conspicuous part of the municipal office and in such places of public resort, markets, slaughter-houses and other works or places affected thereby, as the commissioner thinks fit, and the said boards shall from time to time be renewed by the commissioner.

469. (1) No municipal officer or servant shall at any reasonable time prevent the inspection of any board provided by the commissioner under the last preceding section by any person desiring to inspect the same.

Boards for exhibiting by-laws to be open to inspection and not to be injured.

(2) No person shall without lawful authority, destroy, pull down, injure or deface any such board.

470. (1) If it shall at any time appear to the Governor in Council that any by-law should be repealed either wholly or in part, he shall cause his reasons for such opinion to be communicated to the corporation and prescribe a reasonable period within which the corporation may make any representation with regard thereto which they shall think fit.

Government may repeal by-laws.

(2) After receipt and consideration of any such representation or, if in the meantime no such representation is received, after the expiry of the prescribed period, the Governor in Council may at any time, by notification in the *Bombay Government Gazette*, repeal such by-law either wholly or in part: provided that no by-law shall be repealed by the Governor in Council in part only, if, within the period aforesaid, the corporation have objected to a partial repeal thereof.

(3) The repeal of a by-law under sub-section (2) shall take effect from such date as the Governor in Council shall in the said notification direct or, if no such date is specified, from the date of the publication of the said notification in the *Bombay Government Gazette*, except as to anything done or suffered or omitted to be done before such date.

(4) The said notification shall also be published in the local newspapers.

CHAPTER XVIII.

PENALTIES.

471. Whoever contravenes any provision of any of the sections, sub-sections and clauses of this Act hereinbelow in this section mentioned or of any regulation made thereunder, or fails to comply with any requisition lawfully made upon him under any of the said sections, sub-sections or clauses shall be punished, for each such offence, with fine which may extend to the amount hereinbelow in this section specified as the maximum amount of fine to be inflicted in respect of offences against the said sections, sub-sections and clauses, respectively, namely :—

Sections.	Maximum amount of fine that may be inflicted.
349, 368, 371, 385, sub-sec. (1), 388, cls. (e), (f) and (g), 408, sub-sec. (2), 469, sub-sec. (2)	Ten rupees.
270, sub-sec. (2), 280, 311, 316, sub-sec. (1), 327, sub-sec. (2), 328, 356, 357, 358, 370, 394, sub-sec. (2), 397, sub-sec. (1)... ..	Twenty rupees.
149, 150, 152, 188, 226, sub-sec. (2), 231, 232, 233, cl. (b), 236, 243, sub-sec. (2), 248, sub-sec. (1), 250, sub-sec. (1), 251, 257, sub-sec. (1), 269, sub-sec. (3), 274, 278, sub-sec. (2), 319, sub-sec. (2), 321, sub-sec. (2), 322, sub-sec. (1), 323, 324, sub-sec. (1), 326, 329, sub-sec. (1), 334, sub-sec. (1), 372, 375, 377, 380, 381, 383, sub-sec. (1), 384, sub-sec. (1), 393, sub-sec. (1), 401, sub-sec. (1), 403, cl. (a), 404, 406, 410, sub-sec. (1), 428*, sub-sec. (1), 457, sub-secs. (1) and (3), 469, sub-sec. (1), 479, sub-sec. (5)	Fifty rupees.
136, sub-sec. (2), 138, 223, sub-sec. (1), 229, 235, 258, 268, sub-sec. (1), 275, 281, 282, 283, sub-sec. (1), 284, 305, 312, sub-sec. (1), 313, sub-sec. (1), 315, 331, 335, sub-sec. (1), 411, 412, sub-sec. (1), 421, 424, sub-sec. (2), 425, sub-sec. (1), 427, sub-secs. (2) and (3), 435, 441, 446, sub-sec. (1), 447, 449, 450, sub-sec. (1), 459... ..	One hundred rupees.

8. 471*.—In the official copy 418 is here printed by mistake for 428, see G. R. 212 of 9th October 1888, Leg. Dept.

Sections.	Maximum amount of fine that may be inflicted.
240, 241, 247, 249, 273, 308, sub-secs. (1) and (2), 309, sub-sec. (1), 325, 379, sub-secs. (1) and (3), 392, sub-sec. (1), 403, sub-sec. (1), 405, 423, sub-sec. (2), 458, 507, sub-sec. (3)	Two hundred rupees.
231, 304, sub-sec. (1), 354, 378, sub-sec. (2), 382, 394, sub-sec. (1), 430, 431, 432, sub-sec. (1), 433, sub-sec. (1), 437, 440, sub-sec. (1).	Five hundred rupees.
333, sub-secs. (1), (2) and (3), 347, sub-sec. (1), 353, 390, sub-sec. (1), 395, sub-sec. (1), 402, sub-sec. (1)	One thousand rupees.

472. Whoever, after having been convicted of contravening any provision of any of the sections, sub-sections or clauses of this Act hereinbelow in this section mentioned, or of any regulation made thereunder, or of failing to comply with any requisition lawfully made upon him under any of the said sections, sub-sections, or clauses, continues to contravene the said provision or to neglect to comply with the said requisition, as the case may be, shall be punished, for each day that he continues so to offend, with fine which may extend to the amount hereinbelow in this section specified, as the maximum amount of daily fine to be inflicted in respect of offences against the said sections, sub-sections and clauses, respectively, namely:—

Sections.	Maximum amount of daily fine that may be inflicted.
226, sub-sec. (2), 231, 232, 233, cl. (b), 236, 243, sub-sec. (2), 248, sub-sec. (1), 250, sub-sec. (1), 251, 257, sub-sec. (1), 329, sub-sec. (1), 349, 375, 377, 380, 381, 383, sub-sec. (1), 384, sub-sec. (1), 394, sub-sec. (2), 397, sub-sec. (1)	Five rupees.
223, sub-sec. (1), 229, 268, sub-sec. (1), 305, 312, sub-sec. (1), 313, sub-sec. (1), 315, 324, sub-sec. (1), 334, sub-sec. (1), 335, sub-sec. (1), 372, cl. (f), 411, 425, sub-sec. (1), 479, sub-sec. (5)	Ten rupees.
249, 326, 379, sub-secs. (1) and (3)	Twenty rupees.
322, sub-sec. (1), 323, 394, sub-sec. (1), 403, sub-sec. (1), 405, 507, sub-sec. (3)	Fifty rupees.
354, 382, 392, sub-sec. (1)	One hundred rupees.
395, sub-sec. (1)	Five hundred rupees.

473. Whoever contravenes any provision of any of the sections, sub-sections or clauses of this Act hereinbelow in this section mentioned, or of any regulation made thereunder, and whoever fails to comply with any requisition lawfully made upon him under any of the said sections, sub-sections or clauses shall be deemed to have committed an offence punishable under the section of the Indian Penal Code hereinbelow in this section respectively specified as the section of the said code under which such person shall be punishable, namely:—

Sections of this Act.	Sections of the Indian Penal Code under which offenders are punishable.
28, clause (j)	177.
155, sub-sections (1) and (2), 187	176 or 177, as the case may be.
388, cls. (a), (b), (c) and (d), 389	277.
434, sub-sec. (1)	188.

474. Any councillor who knowingly acquires directly or indirectly any share or interest in any contract or employment with, by or on behalf of the corporation, not being a share or interest such as, under section 16, it is permissible for a councillor to have without being thereby disqualified for being a councillor, and any commissioner, deputy commissioner, municipal officer or servant who knowingly acquires directly or indirectly any share or interest in any contract or employment with, by or on behalf of the corporation, not being a share or interest such as, under clauses (h) and (k) of section 16, it is permissible for a councillor to have, without being thereby disqualified for being a councillor, shall be deemed to have committed the offence made punishable by section 168 of the Indian Penal Code.

475. (1) Whoever contravenes any provision of sub-section (1) of section 267 shall be punished with imprisonment which may extend to one month, or with fine which may extend to one hundred rupees, or with both.

Punishment of offences against section 267.

(2) When any person is convicted under sub-section (1), the magistrate who convicts him may order the immediate removal of any building or the immediate discontinuance of the operation or use of the land in respect of which such conviction has been held.

(3) If any order made under sub-section (2) is disobeyed or the execution thereof resisted, the offender shall be punished with imprisonment which may extend to one month, or with fine which may extend to one hundred rupees, or with both.

476. Whoever contravenes any provision of section 391, whether the person so offending be the owner or occupier of the premises in which a furnace is situated or the agent or some person employed by the owner or occupier for managing the same, shall be punished with fine which may extend, on a first conviction, to one hundred rupees and, on a second or subsequent conviction, to a sum equal to double the amount to which it might have extended on the last preceding conviction.

477. No person, who receives the rent of any premises in any capacity described in sub-clauses (i), (ii) and (iii) of clause (m) of section 3, shall be liable to any penalty under this Act for omitting to do any act as the owner of such premises, if he shall prove that his default was caused by his not having funds of, or due to, the owner sufficient to defray the cost of doing the act required.

478. The law for the time being in force for the punishment of offences relating to the levy or payment of customs-duties and the grant of drawbacks in connection therewith and for the reward of informers shall, as far as may be, apply to similar offences committed in respect of the levy, payment and refund of town-duties, and any omission or misdescription in passing for export any goods in respect of which refund of town-duties may be claimable, shall be punishable as if such omission or misdescription had been made in passing the said goods for import.

CHAPTER XIX.

PROCEDURE.

Licenses.

479. (1) Whenever it is provided in this Act that a license or a written permission may be given for any purpose, such license or written permission shall specify the period for which and the restrictions and conditions subject to which the same is granted and shall be given under the signature of the commissioner or of a municipal officer empowered under section 68 to grant the same.

(2) For every such license or written permission a fee may be charged at such rate as shall from time to time be fixed by the commissioner, with the sanction of the corporation.

Fees to be chargeable.

(3) Subject to the provisions of clause (d) of section 403, any license or written permission granted under this Act may at any time be suspended or revoked by the commissioner, if any of its restrictions or conditions is infringed or evaded by the person to whom the same has been granted, or if the said person is convicted of an infringement of any of the provisions of this Act or of any regulation or by-law made hereunder in any matter to which such license or permission relates.

Licenses and written permissions may be revoked, &c.

(4) When any such license or written permission is suspended or revoked or when the period for which the same was granted has expired, the person to whom the same was granted shall, for all purposes of this Act, be deemed to be without a license or written permission, until the commissioner's order for suspending or revoking the license or written permission is cancelled by him, or until the license or written permission is renewed, as the case may be.

When license or written permission is revoked, &c., grantee to be deemed to be without a license or written permission.

(5) Every person to whom any such license or written permission has been granted shall at all reasonable times, while such written permission or license remains in force, if so required by the commissioner, produce such license or written permission.

Grantee to be bound to produce license or written permission.

Public Notices and Advertisements.

480. Whenever it is provided by this Act that public notice shall or may be given of anything, such public notice shall be in writing under the signature of the commissioner or of a municipal officer empowered under section 68 to give the same and shall be widely made known in the locality to be affected thereby, by affixing copies thereof in conspicuous public places within the said locality, or by publishing the same by beat of *batáki*, or by advertisement in the local newspapers, or by any two or more of these means and by any other means that he shall think fit.

Public notices how to be made known.

481. Whenever it is provided by this Act that notice shall be given by advertisement in the local newspapers, or that a notification or any information shall be published in the local newspapers, such notice, notification or information shall be inserted, if practicable, in at least two English newspapers, one Maráthi newspaper and one Gujaráthi newspaper published in the city.

Advertisements how to be made.

482. Whenever under this Act the doing or the omitting to do anything or the validity of anything depends upon the

Consent, &c., of commissioner may be proved by written document under his signature.

consent, approval, declaration, opinion or satisfaction of the commissioner or of a deputy commissioner or any municipal officer, a written

document signed by the commissioner or by such deputy commissioner or municipal officer, purporting to convey or set forth his consent, approval, declaration, opinion or satisfaction shall be sufficient evidence of such consent, approval, declaration, opinion or satisfaction.

Service of Notices, &c.

483. Notices, bills, schedules, summonses and other such documents

Notices, &c., by whom to be served or presented.

required by this Act or by any regulation or by-law made under this Act to be served upon, or issued, or presented or given to any person,

shall be so served, issued, or presented or given by municipal officers or servants or by other persons authorized by the commissioner in this behalf.

484. When any notice, bill, schedule, summons or other such document

Service how to be effected on owners of premises and other persons.

is required by this Act or by any regulation or by-law made under this Act, to be served upon or issued or presented to any person, such service, issue or presentation shall, except in the

cases otherwise expressly provided for in section 485, be effected :

- (a) by giving or tendering to such person the said notice, bill, schedule, summons or other document ; or
- (b) if such person is not found, by leaving the said notice, bill, schedule, summons or other document at his last known place of abode in the city, or by giving or tendering the same to some adult male member or servant of his family ; or
- (c) if such person does not reside in the city and his address elsewhere is known to the commissioner, by forwarding the said notice, bill, schedule, summons or other document to him by post under cover bearing the said address ; or
- (d) if none of the means aforesaid be available, by causing the said notice, bill, schedule, summons or other document, to be affixed on some conspicuous part of the building or land, if any, to which the same relates.

485. When any notice, bill, schedule, summons or other such document

Service on "owner or occupier" of premises how to be effected.

is required by this Act, or by any regulation or by-law made under this Act, to be served upon or issued or presented to the owner or occupier of any building or land, it shall not be necessary

to name the owner or occupier therein and the service, issue or presentation thereof shall be effected, not in accordance with the provisions of the last preceding section, but as follows, namely :

- (a) by giving or tendering the said notice, bill, schedule, summons or other document to the owner or occupier, or if there be more than one owner or occupier, to any one of the owners or occupiers of such building or land ; or
- (b) if the owner or occupier or no one of the owners or occupiers is found, by giving or tendering the said notice, bill, schedule, summons or other document to some adult male member or servant of the family of the owner or occupier or of any one of the owners or occupiers ; or
- (c) if none of the means aforesaid be available, by causing the said notice, bill, schedule, summons or other document to be affixed on some conspicuous part of the building or land to which the same relates.

The three last sections inapplicable to magistrates' summonses.

486. Nothing in the three last preceding sections applies to any summons issued under this Act by a magistrate.

487. (1) Every license, written permission, notice, bill, schedule, summons, or other such document, required by this Act or by any regulation or by-law framed under this Act, to bear the signature of the commissioner or of any municipal officer, shall be deemed to be properly signed if it bears a facsimile of the signature of the commissioner or of such municipal officer, as the case may be, stamped thereupon.

(2) Nothing in this section shall be deemed to apply to a cheque drawn upon the municipal fund under section 113.

Power of entry.

488. The commissioner may enter into or upon any building or land, with or without assistants or workmen, in order to make any inspection or survey or to execute any work which is authorized by this Act or by any regulation or by-law framed under this Act, to be made or executed, or which it is necessary for any of the purposes, or in pursuance of any of the provisions of this Act or of any such regulation or by-law, to make or execute :

Provided that :

- (a) except when it is in this Act otherwise expressly provided, no such entry shall be made between sunset and sunrise ;

S. 485, cl. (b) is printed as in the official copy, but apparently it should be " if the owner or occupier is not found, or—".

- (b) except when it is in this Act otherwise expressly provided, no building which is used as a human dwelling shall be so entered, unless with the consent of the occupier thereof, without giving the said occupier not less than twenty-four hours' previous written notice of the intention to make such entry, and unless for any sufficient reason it shall be deemed inexpedient to furnish such information, of the purpose thereof;
- (c) sufficient notice shall in every instance be given, even when any premises may otherwise be entered without notice, to enable the inmates of any apartment appropriated to females to remove to some part of the premises where their privacy need not be disturbed;
- (d) due regard shall always be had, so far as may be compatible with the exigencies of the purpose for which the entry is made, to the social and religious usages of the occupants of the premises entered.

Enforcement of orders to execute works, &c.

489. (1) When any requisition or order is made, by written notice, by the commissioner or by any municipal officer empowered under section 68 in this behalf, under any section, sub-section or clause of this Act mentioned in sub-section (2), a reasonable period shall be prescribed in such notice for carrying such requisition or order into effect and if, within the period so prescribed, such requisition or order or any portion of such requisition or order is not complied with, the commissioner may take such measures or cause such work to be executed or such thing to be done as shall, in his opinion, be necessary for giving due effect to the requisition or order so made, and, unless it is in this Act otherwise expressly provided, the expenses thereof shall be paid by the person or by any one of the persons to whom such requisition or order was addressed.

(2) The sections, sub-sections and clauses of this Act referred to in sub-section (1) are the following (namely):—

Section 226, sub-section (2)	Section 308, sub-section (2)
" 230, " (5)	" 309 " (1)
" 231	" 311
" 232	" 315
" 233, clause (b)	" 325
" 243 " (2)	" 326, sub-section (3)
" 248 " (1)	" 329, " (1)
" 257 " (1)	" 334 " (1)
" 271 " (2)	" 349 " (2)
" 278 " (2)	" 352
" 305	" 353

Section 354

- „ 368, sub-section (2)
 „ 375
 „ 376
 „ 377
 „ 380

Section 381

- „ 382
 „ 383, sub-section (1)
 „ 392 „ (1)
 „ 405
 „ 425, sub-section (1).

(3) The commissioner may take any measure, execute any work or cause anything to be done under this section, whether or not the person who has failed to comply with the requisition or order is liable to punishment or has been prosecuted or sentenced to any punishment for such failure.

490. (1) The expenses incurred by the commissioner in effecting any removal under section 314, or, in the event of a written notice issued under sub-section (1) of section 315 or section 354 or 380 not being complied with, under section 489, shall be recoverable by sale of the materials removed, and if the proceeds of such sale do not suffice, the balance shall be paid by the owner of the said materials.

(2) But if the expenses of removal are in any case paid before the materials are sold, the commissioner shall restore the materials to the owner thereof on his claiming the same at any time before they are sold or otherwise disposed of and on his paying all other expenses, if any, incurred by the commissioner in respect thereof or in respect of the intended sale or disposal thereof.

(3) If the materials are not claimed by the owner thereof, they shall be sold by auction or otherwise disposed of as the commissioner thinks fit, as soon as conveniently may be after one month from the date of their removal, whether the expenses of the removal have in the mean time been paid or not; and the proceeds, if any, of the sale or other disposal, shall, after defraying therefrom the costs of the sale or other disposal, and, if necessary, of the removal, be paid to the credit of the municipal fund, and shall be the property of the corporation.

Recovery of expenses by the Commissioner.

491. (1) Whenever under this Act or any regulation or by-law made under this Act, the expenses of any work executed or of any measure taken or thing done by or under the order of the commissioner or of any municipal officer empowered under section 68 in this behalf are payable by any person, the same shall be payable on demand.

(2) If not paid on demand, the said expenses shall be recoverable by the commissioner, subject to the provisions of sub-section (2) of section 503, by distress and sale of the goods and chattels of the defaulter, as if the amount thereof were a property-tax due by the said defaulter.

492. (1) If the said expenses are due in respect of some work executed or thing done to, upon, or in connection with,

If the defaulter is the owner of premises in respect of which expenses are payable, the occupier to be also liable for payment thereof.

some building or land or of some measure taken with respect to some building or land, and the defaulter is the owner of such building or land, the amount thereof may be demanded from any

person who at any time before the said expenses have been paid, occupies the said building under the said owner; and in the event of the said person failing to pay the same, they may be recovered, by distress and sale of the goods and chattels of the said person, as if the amount thereof were a property-tax due by him :

(2) Provided as follows, namely :

(a) unless the said person neglects or refuses, at the request of the commissioner, truly to disclose the amount of the rent payable by him in respect of the said land or building and the name and address of the person to whom the same is payable, the said person shall not be liable to pay on account of the said expenses any larger sum than, up to the time of demand, is payable by him to the owner on account of rent of the said land or building; but it shall rest upon the said person to prove that the amount of the expenses demanded of him is in excess of the sum payable by him to the owner;

(b) the said person shall be entitled to credit in account with the owner for any sum paid by or recovered from him on account of the said expenses;

(c) nothing in this section shall affect any agreement made between the said person and the owner of the building or land in his occupation respecting the payment of the expenses of any such work, thing or measure as aforesaid.

493. Instead of recovering any such expenses as aforesaid in any manner hereinbefore provided, the commissioner may,

Commissioner may agree to receive payment of expenses in instalments.

if he thinks fit and with the approval of the standing committee, take an agreement from the person liable for the payment thereof, to pay

the same in instalments of such amounts and at such intervals as will secure the payment of the whole amount due, with interest thereon at the rate of nine per centum per annum, within a period of not more than five years.

494. If the expenses to be recovered have been incurred in respect of any work mentioned in any of the sections 227,

What expenses may be declared to be improvement expenses.

clause (c), 230, 231, 233, clause (b), 248, sub-section (1), 257, 272, 274, sub-section (1), 305,

352, sub-section (1); 376, 381 and 405, the commissioner may, if he thinks

fit and with the approval of the corporation, declare such expenses to be improvement expenses.

495. (1) Improvement expenses shall be a charge on the premises in respect of which or for the benefit of which the Improvement expenses by whom payable. same have been incurred and shall be recoverable in instalments of such amounts, not being less for any premises than twelve rupees per annum, and at such intervals as will suffice to discharge such expenses, together with interest thereon at the rate of six per centum per annum, within such period not exceeding thirty years as the commissioner, with the approval of the corporation, may in each case determine.

(2) The said instalments shall be payable by the occupier of the premises on which the expenses are so charged or, in the event of the said premises becoming unoccupied at any time before the expiration of the period fixed for the payment of such expenses or before the same, with interest as aforesaid, are fully paid off, by the owner for the time being of the said premises, so long as the same continue to be unoccupied.

496. (1) Where the occupier by whom any improvement expenses are paid holds the premises, on which the expenses are charged, at a rent not less than the rack-rent, he shall be entitled to deduct three-fourths of the amount paid by him on account of such expenses from the rent payable by him to his landlord, and if he hold at a rent less than the rack-rent, he shall be entitled to deduct from the rent so payable by him such proportion of three-fourths of the amount paid by him on account of such expenses as his rent bears to the rack-rent.

(2) And if the landlord from whose rent any deduction is so made is himself liable to the payment of rent for the premises in respect of which the deduction is made and holds the same for a term of which less than twenty years is unexpired (but not otherwise), he may deduct from the rent so payable by him such proportion of the sum deducted from the rent payable to him as the rent payable by him bears to the rent payable to him, and so in succession with respect to every landlord (holding for a term of which less than twenty years is unexpired) of the same premises both receiving and liable to pay rent in respect thereof:

(3) Provided that nothing in this section shall be construed to entitle any person to deduct from the rent payable by him more than the whole sum deducted from the rent payable to him.

497. At any time before the expiration of the period for the payment of any improvement expenses, the owner or occupier of the premises on which they are charged may redeem such charge by paying to

Redemption of charge for improvement expenses.

the commissioner such part of the said expenses as may not have been defrayed by sums already levied in respect of the same.

498. Any instalment payable under section 493 or section 495, which is not paid when the same becomes due, may be recovered by the commissioner by distress and sale of the goods and chattels of the person by whom it is due as if it were a property-tax due by the said person.

Recovery of instalments due under sections 493 and 495.

499. Whenever the owner of any building or land fails to execute any work which he is required to execute under this Act or under any regulation or by-law made under this Act, the occupier, if any, of such building or land may, with the approval of the commissioner, execute the said work and he shall be entitled to recover the reasonable expenses incurred by him in so doing from the owner and may deduct the amount thereof from the rent which from time to time becomes due by him to the owner.

In default of owner the occupier of any premises may execute required work and recover expenses from the owner.

500. No person who receives the rent of any premises in any capacity described in sub-clauses (i), (ii) and (iii) of clause (m) of section 3, shall be liable to do anything which is by this Act required to be done by the owner, unless he have sufficient funds of or due to the owner to pay for the same.

Limitation of liability of agent or trustee of owner.

Payment of Compensation.

501. In any case not otherwise expressly provided for in this Act, the commissioner may, with the approval of the standing committee, pay compensation to any person who sustains damage by reason of the exercise of any of the powers vested by this Act in the commissioner or in any municipal officer or servant.

Compensation for damages may be paid by the commissioner.

502. (1) If, on account of any act or omission, any person has been convicted of an offence against this Act or against any regulation or by-law made under this Act, and, by reason of the same act or omission of the said person, damage has occurred to any property of the corporation, compensation shall be paid by the said person for the said damage, notwithstanding any punishment to which he may have been sentenced for the said offence.

Compensation to be paid by offenders against this Act for any damage caused by them.

(2) In the event of dispute, the amount of compensation payable by the said person shall be determined by the magistrate before whom he was convicted of the said offence, and on non-payment of the amount of compensation so determined the same shall be recovered under a warrant from the said magistrate as if it were a fine inflicted by him on the person liable therefor.

Recovery of Expenses or Compensation, in case of dispute.

503. (1) If, when the commissioner demands payment of any expenses

In cases falling under section 491, disputes to be determined by the Chief Judge of the Small Cause Court.

under section 491, his right to demand the same or the amount of the demand is disputed, or if in the case of expenses incurred by the commissioner in taking temporary measures

under sub-section (2) of section 329, the necessity for such temporary measures is disputed, the commissioner shall refer the case for the determination of the Chief Judge of the Small Cause Court.

(2) Pending the Chief Judge's decision, the commissioner shall defer further proceedings for the recovery of the sum claimed by him and, after the decision, shall proceed to recover only such amount, if any, as shall be thereby ascertained to be due.

504. If, in any case not falling under section 491, any person is

Amount of expenses or compensation to be determined, in all cases of dispute, by the Chief Judge of the Small Cause Court.

required by this Act or by any regulation or by-law framed under this Act, to pay any expenses or any compensation, the amount to be so paid and, if necessary, the apportionment of

the same, shall, in case of dispute, be determined, except as is otherwise provided in sections 502 and 515, by the Chief Judge of the Small Cause Court, on application being made to him for this purpose at any time within one year from the date when such expenses or compensation first became claimable.

505. If the amount of any expenses or compensation ascertained in

Expenses or compensation awarded by Chief Judge of the Small Cause Court to be recovered, if necessary, as if they were due under a decree of the Court.

accordance with the last preceding section is not paid by the person liable to pay the same on demand, it shall be recoverable as if the same were due under a decree of the Small Cause Court.

506. Instead of proceeding in any manner aforesaid for the recovery

Persons liable for expenses or compensation may be sued for recovery thereof.

of any expenses or compensation of which the amount due has been ascertained as hereinbefore provided, or after such proceedings have been taken unsuccessfully or with only partial success,

the sum due, or the balance of the sum due, as the case may be, may be recovered by a suit brought against the person liable for the same in any court of competent jurisdiction.

§s. 503, 504.—An appeal lies to the High Court from a decision of the Chief Judge under these sections where the amount of the claim in respect of which the decision is passed exceeds Rs. 2,000. See S. 3 of Act XII. of 1888. The period of limitation is 60 days from the date of the order appealed against. See S. 5 of the same Act.

Proceedings before the Chief Judge of the Small Cause Court.

507. (1) If the owner of any building or land is prevented by the occupier thereof from complying with any provision of this Act or of any regulation or by-law made under this Act or with any requisition made under this Act or under any such regulation or by-law, in respect of such building or land, the owner may apply to the Chief Judge of the Small Cause Court.

Remedy of owner of building or land against occupier who prevents his complying with any provision of this Act.

(2) The said Chief Judge, on receipt of any such application, may make a written order requiring the occupier of the building or land to afford all reasonable facilities to the owner for complying with the said provision or requisition and may also, if he thinks fit, direct that the costs of such application and order be paid by the occupier.

(3) After eight days from the date of any such order, it shall be incumbent on the said occupier to afford all such reasonable facilities to the owner for the purpose aforesaid as shall be prescribed in the said order; and in the event of his continued refusal so to do, the owner shall be discharged, during the continuance of such refusal, from any liability which he would otherwise incur by reason of his failure to comply with the said provision or requisition.

508. (1) For the purposes of any inquiry or proceeding under this Act, the Chief Judge of the Small Cause Court may summon and enforce the attendance of witnesses and compel them to give evidence and compel the production of documents, by the same means and, as far as is possible, in the same manner as is provided in the case of the Small Cause Court by the Presidency Small Cause Court Act, 1882; and in all matters relating to any such inquiry or proceeding the said Chief Judge shall be guided generally by the provisions of the said Act so far as the same are applicable.

Power to summon witnesses and compel production of documents.

(2) If, in any such inquiry or proceeding, the person against whom the complaint or application has been made, fails to appear, notwithstanding that he has been duly summoned for this purpose, the said Chief Judge may hear and determine the case in his absence.

(3) The costs of every such inquiry or proceeding, as determined by the said Chief Judge, shall be payable by such parties and in such proportions, as the said Chief Judge shall direct and the amount thereof shall, if necessary, be recoverable as if the same were due under a decree of the Small Cause Court.

Fees in proceedings before the Chief Judge of the Small Cause Court.

509. (1) The Governor in Council may, from time to time, by notification^(a) in the *Bombay Government Gazette* prescribe what fee, if any, shall be paid :

(a) on any application, appeal or reference made under this Act to the Chief Judge of the Small Cause Court ; and

(b) previous to the issue, in any inquiry or proceeding of the said Chief Judge under this Act, of any summons or other process.

Provided that the fees, if any, prescribed under clause (a) shall not, in cases in which the value of the claim or subject-matter is capable of being estimated in money exceed the fees at the time being levied, under the provisions of the Presidency Small Cause Court Act, 1882, in cases in which the value of the claim or subject-matter is of like amount.

(2) The Governor in Council may from time to time by a like notification determine by what person any fee prescribed under clause (a) shall be payable.

(3) No application, appeal or reference shall be received by the said Chief Judge, until the fee, if any, prescribed therefor under clause (a) has been paid.

510. The Chief Judge of the Small Cause Court may, whenever he thinks fit, receive an application, appeal or reference made under this Act by or on behalf of a poor person and may issue process on behalf of any such person, without payment or on a part payment of the fees prescribed under section 509.

Exemption of poor persons from fees.

511. Whenever any application, appeal or reference made to the Chief Judge of the Small Cause Court under this Act is settled by agreement of the parties before the hearing, half the amount of all fees paid up to that time shall be repaid by the said Chief Judge to the parties by whom the same have been respectively paid.

Re-payment of half-fees on settlement before hearing.

512. The Chief Judge of the Small Cause Court may :

Authority to the Chief Judge of the Small Cause Court to delegate certain powers and to make rules.

(a) delegate either generally or specially to any other Judge of the said Court, power to receive applications, appeals and references under this Act and to discharge any other duty in connection with such

applications, appeals and references, except the hearing and adjudication thereof ;

- (b) if for any reason, it shall be necessary so to do in order to secure the disposal of any application made to him under section 20 within the limited period prescribed in the said section, delegate to any other Judge of the said Court the hearing and adjudication of the said application ;
- (c) from time to time, with the approval of Government, make rules, not inconsistent with this Act, providing for any matter connected with the exercise of the jurisdiction conferred upon him by this Act which is not herein specifically provided for.

Proceedings before Magistrates.

513. All offences against this Act, or against any regulation or by-law made under this Act, whether committed within or without the city, shall be cognizable by a presidency magistrate ; and no such magistrate shall be deemed to be incapable of taking cognizance of any such offence or of any offence against any enactment hereby repealed, by reason only of his being liable to 'pay any municipal tax or of his being benefited by the municipal fund to the credit of which any fine inflicted by him will be payable.

514. No person shall be liable to punishment for any offence made punishable by this Act, unless complaint of such offence is made before a presidency magistrate within three months, or if the offence be against the provisions of section 155, within six months, next after the commission of such offence.

515. (1) Any person who resides in the city may complain to a presidency magistrate of the existence of any nuisance, or that in the exercise of any power conferred by sections 224, 244, 245, 246, or 367 more than the least practicable nuisance has been created.

(2) Upon receipt of any such complaint, the magistrate, after making such inquiry as he thinks necessary, may, if he sees fit, direct the commissioner :

- (a) to put in force any of the provisions of this Act or to take such measures as to such magistrate shall seem practicable and reasonable for preventing, abating, diminishing or remedying such nuisance ;

S. 515.—An appeal lies to the High Court from an order passed under this section. See S. 4 of Act XII. of 1888. The period of limitation is 60 days from the date of the order appealed against. See S. 5 of the same Act.

(b) to pay to the complainant such reasonable costs of and relating to the said complaint and order as the said magistrate shall determine, inclusive of compensation for the complainant's loss of time in prosecuting such complaint.

(3) It shall be incumbent on the commissioner to obey every such order.

(4) Nothing in this Act contained shall interfere with the right of any person who may suffer injury or whose property may be injuriously affected by any act done in the exercise of any power conferred by sections 224, 244, 245, 246, or 367 to recover damages for the same.

Arrest of Offenders.

516. (1) Any police officer may arrest any person who commits in his view any offence against this Act or against any regulation or by-law made under this Act, if the name and address of such person be unknown to him and if such person, on demand, declines to give his name and address or gives a name and address which such officer has reason to believe to be false.

(2) No person so arrested shall be detained in custody after his true name and address are ascertained or, without the order of a magistrate, for any longer time, not exceeding at the most forty hours from the arrest, than is necessary for bringing him before a magistrate competent to take cognizance of his offence.

Legal Proceedings.

517. (1) The commissioner may :
 (a) take, or withdraw from, proceedings against any person who is charged with :

Provisions respecting institution, &c., of civil and criminal actions and obtaining legal advice.

- (i) any offence against this Act ;
- (ii) any offence which affects or is likely to affect any property or interest of the corporation or the due administration of this Act ;
- (iii) committing any nuisance whatsoever ;

(b) compound any offence against this Act, which under the law at the time in force may legally be compounded ;

- (c) defend any election petition brought under section 33 ;
- (d) defend, admit or compromise any appeal against a rateable value or tax, brought under section 217 ;
- (e) take, withdraw from, or compromise, proceedings, under sections 502, sub-section (2), 503, 504 and 505, for the recovery of expenses or compensation claimed to be due to the corporation ;
- (f) withdraw or compromise any claim for a sum not exceeding five hundred rupees against any person in respect of a penalty payable under a contract entered into with such person by the commissioner, or, with the approval of the standing committee, any such claim for any sum exceeding five hundred rupees ;
- (g) defend any suit or other legal proceeding brought against the corporation or against the commissioner or a deputy commissioner or a municipal officer or servant, in respect of anything done or omitted to be done by them, respectively, in their official capacity ;
- (h) with the approval of the standing committee, admit or compromise any claim, suit or legal proceeding brought against the corporation or against the commissioner or a deputy commissioner or a municipal officer or servant, in respect of anything done or omitted to be done as aforesaid ;
- (i) with the like approval, institute and prosecute any suit or withdraw from or compromise any suit or any claim, other than a claim of the description specified in clause (f), which has been instituted or made in the name of the corporation or of the commissioner ;
- (k) obtain such legal advice and assistance as he may from time to time think it necessary or expedient to obtain or as he may be desired by the corporation or the standing committee to obtain, for any of the purposes mentioned in the foregoing clauses of this section or for securing the lawful exercise or discharge of any power or duty vesting in or imposed upon any municipal authority or any municipal officer or servant :

(2) Provided that the commissioner shall not defend any suit or legal proceeding under clause (g) without first of all taking legal advice with regard thereto, and shall institute and prosecute any suit which the corporation shall determine to have instituted and prosecuted.

CHAPTER XX.

CONTROL.

518. (1) If, upon complaint being made to him and after such inquiry as he thinks fit to make, it shall at any time appear to the Governor in Council that any of the provisions of sections 61, 62, 134, 225, 434 and 438, have not been or are not being duly carried out or enforced, the Governor in Council may make an order prescribing a period within which such provision shall be carried out or enforced:

Power to Government to provide for performance of duties in default of any municipal authority.

(2). Provided that, except in any case which appears to the Governor in Council to be one of emergency, no such order shall be made until after the expiry of one month from the date of service of a written notice on the corporation, and, if the Governor in Council shall think fit, on the commissioner, requiring cause to be shown why such order should not be made, nor until the cause, if any, so shown has been considered by the Governor in Council.

(3) If, within the period prescribed in an order made under sub-section (1), the provision is not carried out or enforced, the Governor in Council may appoint some person to carry out or enforce the same and may direct that the expense of carrying out or enforcing such provision, together with such reasonable remuneration to the person carrying out or enforcing the same as the Governor in Council shall determine and the costs of the proceedings under this section, shall be paid out of the municipal fund.

519. (1) If, from the report of any person appointed by Government under section 264 to inspect the Vehár water-works, it shall appear to Government that any portion of the said water-works is not in a sound and effective condition, Government may, by notice under the signature of a secretary to Government, require that the said portion of the said works be repaired, improved or otherwise rendered sound and effective, within a reasonable time to be prescribed in the notice.

Power to Government to enforce repair, &c., of Vehár water-works.

(2) The said notice shall be addressed to the corporation and to the commissioner and it shall be incumbent on the corporation and on the commissioner, within the limits of their respective powers, to give effect thereto. If effect be not given thereto, Government may cause the required work to be done and may direct that the expenses thereof shall be paid by the commissioner.

520. (1) When any such order as is mentioned in sub-section (3) of section 518, or in sub-section (2) of section 519 shall have been made, the corporation shall cause to be paid to Government the sum or sums of money of which payment shall from

Expenses of measures enforced under sections 518 and 519 how to be recovered.

time to time be required, in pursuance of the said order, in any requisition signed by a secretary to Government.

(2) And if, within fourteen days from the delivery of any such requisition, the same is not complied with, Government may, by a written order signed by one of their secretaries, authorize and direct some person to receive from the bank in which the municipal fund is lodged, the sum or sums mentioned in the said order.

(3) The said bank shall, upon production of the said written order, forthwith pay the said sum or sums to the person therein authorized to receive the same, and the said written order shall be a sufficient discharge to the said bank from all liability to the corporation in respect of any sum or sums so paid by it out of the municipal fund.

CHAPTER XXI.

SUPPLEMENTAL PROVISIONS.

521. The commissioner and deputy commissioner and every councillor and every municipal officer or servant appointed under this Act, and every contractor or agent for the collection of any municipal tax, and every servant or other person employed by any such contractor or agent, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

522. (1) The police commissioner shall, as far as may be, co-operate, by himself and through his subordinates, with the commissioner for carrying into effect and enforcing the provisions of this Act and for the maintenance of good order in the city.

(2) It shall be the duty of every police officer in the city to communicate without delay to the proper municipal officer any information which he receives of a design to commit or of the commission of any offence against this Act or against any regulation or by-law made under this Act, and to assist the commissioner or any municipal officer or servant, reasonably demanding his aid for the lawful exercise of any power vesting in the commissioner or in such municipal officer or servant under this Act.

523. (1) In computing any limited time before, or from or after any date or event which is appointed or allowed by or under this Act for the doing of any act or the taking of any proceeding, such time shall be taken as exclusive of the day of that date or of the happening of that event and as ending or commencing, as the case may be, at the end of the last preceding day, or the beginning of the next following day.

(2) Where the limited time is to be computed from or after any date or event, the act or proceeding shall be done or taken at the latest on the last

day of the limited time computed as aforesaid, unless the last day is a Sunday or a public holiday or unless, in the case of a proceeding to be taken before the Chief Judge of the Small Cause Court, the said court is closed on such last day, in which events any act or proceeding shall be deemed to be done or taken in due time if it is done or taken on the next day after such Sunday or after the close of such public holiday or on the first day when such Court re-opens, as the case may be.

(3) Where by this Act any act or proceeding is directed or allowed to be done or taken on a certain day and such day happens to be a Sunday or a public holiday, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day after such Sunday, or after the close of such public holiday.

524. The distances mentioned in this Act shall be measured in
Measurement of distances. a straight line on a horizontal plane.

525. (1) Any informality, clerical error, omission or other defect in any
Informalities and errors in assessments, &c., not to be deemed to invalidate such assessments, &c. assessment made or in any distress levied or in any notice, bill, schedule, summons or other document issued under this Act or under any regulation or by-law made under this Act, may at any time, as far as possible, be rectified.

(2) No such informality, clerical error, omission or other defect shall be deemed to render the assessment, distress, notice, bill, schedule, summons or other document invalid or illegal, if the provisions of this Act and of the regulations and by-laws made hereunder have in substance and effect been complied with; but any person who sustains any special damage by reason of any such informality, clerical error, omission or other defect shall be entitled to recover compensation for the same by suit in a court of competent jurisdiction.

526. The Governor in Council may at any time call upon the corpora-
Power to Government to call for extracts from proceedings, &c. tion to furnish him with any extract from any proceedings of the corporation or standing committee or of any committee constituted under this Act or from any record under the control of the corporation and with any statistics concerning or connected with the administration of this Act; and the corporation shall furnish the same without unreasonable delay.

527. (1) No suit shall be instituted against the corporation or against
Protection of persons acting under this Act against suits. the commissioner, or a deputy commissioner, or against any municipal officer or servant, in respect of any act done in pursuance or execution or intended execution of this Act or in respect of any alleged neglect or default in the execution of this Act:

(a) until the expiration of one month next after notice in writing has been, in the case of the corporation, left at the chief

municipal office and, in the case of the commissioner or of a deputy municipal commissioner or of a municipal officer or servant, delivered to him or left at his office or place of abode, stating with reasonable particularity the cause of action and the name and place of abode of the intending plaintiff and of his attorney or agent, if any, for the purpose of such suit ; nor

(b) unless it is commenced within six months next after the accrual of the cause of action.

(2) At the trial of any such suit :

(c) the plaintiff shall not be permitted to go into evidence of any cause of action except such as is set forth in the notice delivered or left by him as aforesaid ;

(d) the claim, if it be for damages, shall be dismissed if tender of sufficient amends shall have been made before the suit was instituted or if, after the institution of the suit, a sufficient sum of money is paid into court with costs.

(3) Where the defendant in any such suit is a municipal officer or servant, payment of the sum or of any part of any sum payable by him in or in consequence of the suit, whether in respect of costs, charges, expenses, compensation for damages or otherwise, may be made, with the sanction of the standing committee, from the municipal fund.

528. The provisions contained in schedule R for regulating the constitution of the corporation and other matters until this Act is brought fully into operation shall be of the same effect as if they were enacted in the body of this Act.

Effect of the transitory provisions in schedule R.

SCHEDULE A.

(SEE SECTION 2.)

Enactments repealed.

No. and year of Act.	Extent of repeal.	No. and year of Act.	Extent of repeal.
<i>Act of the Governor General in Council.</i>			
XLVIII. of 1860.	Section 17, as amended by Bombay Act IV. of 1882, and clause (16) of section 19.	III. of 1870	... The whole.
		III. of 1872	... The whole.
		IV. of 1878	... The whole.
		VI. of 1878	... The whole.
		II. of 1880	... The whole.
		II. of 1881	... The whole.
<i>Acts of the Governor of Bombay.</i>			
VI. of 1863	... In section 7, the words "by the Commissioner of Police to the credit of the Municipal Commissioners of Bombay, and."	VI. of 1882	... The whole.
		II. of 1885	... So much as has not already been repealed.
		III. of 1885	... The whole.
		I. of 1886	... The whole.
		II. of 1886	... The whole.

Sch. A.—The titles or subjects of the repealed enactments are omitted.

SCHEDULE B.

(SEE SECTION 24.)

Division of the City into Wards.

Consecutive Number.	Name of Ward.	BOUNDARIES.				Number of members of the corporation to be elected for each Ward.
		Of the North.	On the South.	On the East.	On the West.	
1	Fort and Harbour Ward (includes the southern portion of the island within the boundaries here specified and the entire harbour).	A line starting from the harbour and extending along the north wharf of Carnac Basin, the south side of Carnac Road, and of First Marine Street, and continuing thence to Back Bay.	The sea	The harbour	Back Bay	Six.
2	Mándvi Ward	A line starting from the harbour and extending along the south wharf of Clerk Basin, the south side of Wári Bandar Road, and the east side of Han-rook Bridge, and of Mázgon Road to the junction of the latter with Babula Tank Road, thence along the south side of Babula Tank Road to Bhendy Bazar, Parel Road.	A line starting from the harbour and extending along the north wharf of Carnac Basin, and the north side of Carnac Road, as far as Abdul Rehman Street.	The harbour from the south wharf of Clerk Basin to the north wharf of Carnac Basin.	A line starting from Babula Tank Road and extending along the east side of Bhendy Bazar, Parel Road, and the east side of Abdul Rehman Street as far as Carnac Road.	Eight.
3	Bhuleshvar Ward.	A line starting from the west side of Bhendy Bazar, Parel Road, and extending along the south side of Grant Road as far as the north-west corner of Northbrook Garden.	The north side of Carnac Road from Abdul Rehman Street, and the north side of First Marine Street and a line continuing thence to Back Bay.	The west side of Bhendy Bazar, Parel Road, and of Abdul Rehman Street as far as Carnac Road.	A line starting from the north-west corner of Northbrook Garden, Grant Road, and extending along the east side of Trimbak Pashram Street, Ardesir Dady Street, passing thence along the north-east side of part of Bhuleshvar Street to the junction of that street and Thakurwar Street and extending along the south side of the latter as far as Queen's Road and continuing thence to Back Bay.	Eight.

SCHEDULE B—continued.

Consecutive Number.	Name of Ward.	BOUNDARIES.			On the West.	Number of members of the corporation to be elected for each Ward.
		On the North.	On the South.	On the East.		
4	Girgeon Ward	A line starting from the north-west corner of Trimbak Parashram Street and extending along the south side of Grant Road as far as the B. B. & C. I. Railway and again level crossing on Clerk Road along the south side of Clerk Road as far as the south end of Hornby Vellard.	Back Bay from a point opposite to Thakurdwar Street to Malabar Point.	A line starting from Back Bay at a point opposite Thakurdwar Street, and extending along the north side of Thakurdwar Street; south-west side of part of Bhuleshvar Street as far as the southern end of Ardesir Dady Street; thence along the west side of the latter and Trimbak Parashram Street as far as Grant Road; again from the Grant Road Railway bridge along the west side of the B. B. & C. I. Railway Line as far as the Clerk Road level crossing.	The sea from Malabar point to the south end of Hornby Vellard.	Five.
5	Byemulla Ward	A line starting from the harbour and extending along the south wharf of Bellair Basin, the south side of Siwri Road, and the south side of Kala Choki Road as far as the Chinchpokli Station level crossing on Arthur Road.	A line starting from the harbour, and extending along the north wharf of Clerk Basin, the north side of Wari Bandar Road, the west side of Hancock Bridge and of Mazgun Road to the junction of the latter with Babula Tank Road, thence along the north side of Babula Tank Road and Grant Road as far as the east side of the B. B. & C. I. Railway Line.	The harbour from the north wharf of Clerk Basin to the south wharf of Bellair Basin.	A line starting from the Grant Road Railway Bridge and extending along the east side of the B. B. & C. I. Railway Line as far as the Clerk Road level crossing, thence along the south side of Clerk Road and the east side of Arthur Road as far as the Chinchpokli Station level crossing.	Five.
6	Parcel Ward	The northern boundary of the city from the east side of the G. I. P. Railway Line as far as the harbour.	A line starting from the harbour and extending along the north wharf of Bellair Basin, the north side of Siwri Road, and the north side of Kala Choki Road as far as the Chinchpokli Station level crossing on Arthur Road.	The harbour from the north wharf of the Bellair Basin as far as the northern boundary of the city.	The east side of the G. I. P. Railway Line from the Chinchpokli Station level crossing as far as the northern boundary of the city.	Two.
7	Máhim Ward	The northern boundary of the city from the west side of the G. I. P. Railway Line as far as Máhim Causeway.	The north side of Arthur Road and Clerk Road from the Chinchpokli Station level crossing to the south end of Hornby Vellard.	The west side of the G. I. P. Railway Line from the Chinchpokli Station level crossing as far as the northern boundary of the city.	The sea from the south end of Hornby Vellard as far as Máhim Causeway.	Two.

SCHEDULE C.

(SEE SECTION 110.)

Form of Debenture.

No. _____ for Rs. _____

By virtue of the City of Bombay Municipal Act, 1888, we, the Municipal Corporation of the city of Bombay, in consideration of the sum of _____ paid to us by *A. B.* of _____ for the purposes of the said Act, promise to pay to the said *A. B.*, his heirs, executors, administrators and assigns the said sum of _____, together with interest at the rate of _____ per centum per annum, payable half-yearly on the _____ day of _____ and the _____ day of _____.

And by way of security for the said payment, we do hereby grant and assign unto the said *A. B.*, his heirs, executors, administrators and assigns such proportion of the moneys arising or accruing by virtue of the said Act from (the taxes mortgaged) as the sum aforesaid doth or shall bear to the whole sum which is or shall be borrowed on the credit of the said (taxes), to hold to the said *A. B.*, his heirs, executors, administrators and assigns from the day of the date hereof until the sum aforesaid with interest for the same at the rate aforesaid shall be fully paid and satisfied;

and it is hereby declared that the said principal sum shall be repaid on the _____ day of _____ 18 _____ at (place of payment).

Dated this _____ day of _____ 18 _____.

(To be sealed with the
common seal of the Corporation.)

(Signed)
Municipal Commissioner,
on behalf of the Corporation.

This debenture has been sealed with
the common seal of the Municipal Corporation
of the city of Bombay in our presence :

(Signed)
1 _____ } Members of the Standing Committee.
2 _____ }

SCHEDULE D.

(SEE SECTION 110.)

Form of endorsement for transfer of Debenture.

I, *A. B.*, in consideration of the sum of _____ paid to me by *C. D.*, of _____, do hereby transfer to the said *C. D.*, his heirs, executors, administrators and assigns the within security, and all my right, estate and interest in and to the money thereby secured and in and to the (taxes) thereby assigned.

Dated this _____ day of _____ 18 _____.

(Signed) *A. B.*
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SCHEDULE E.

(SEE SECTION 150.)

*Form of Notice of Transfer to be given when the transfer has been effected by Instrument.***To the Municipal Commissioner for the city of Bombay.****I, A. B., hereby give notice, as required by section 149 of the City of Bombay Municipal Act of 1888, of the following transfer of property :—**

Date of Notice.	Date of Instrument.	Name of Vendor or Assignor.	Name of Purchaser or Assignee.	Amount of consideration.	Description of the Property.						If Instrument has been registered, the date of registration.	Remarks.
					Of what it consists.	Situation.	No. in Assessment-Book.	Collector's No.	Dimensions of Land.	Boundaries.		

(Signed) A. B.

SCHEDULE F.

(SEE SECTION 150.)

*Form of Notice of Transfer to be given when the transfer has taken place otherwise than by Instrument.***To the Municipal Commissioner for the city of Bombay.****I, A. B., hereby give notice, as required by section 149 of the City of Bombay Municipal Act of 1888, of the following transfer of property :—**

Date of Notice.	Name in which the Property is at present entered in the Commissioner's Records.	To whose name it is to be transferred.	Description of the Property.						Remarks.
			Of what it consists.	Situation.	No. in Assessment-Book.	Collector's No.	Dimensions of Land.	Boundaries.	

(Signed) A. B.

SCHEDULE G.

(SEE SECTION 180.)

Tax on Vehicles and Animals.

Description of Vehicle or Animal.	Maximum Amount of Tax per Quarter.		
	Rs.	a.	p.
Each four-wheeled vehicle, drawn or impelled by horses, ponies, mules, donkeys, bullocks or machinery	5	0	0
Each two-wheeled vehicle, drawn or impelled by horses, ponies, mules, donkeys, bullocks or machinery	3	0	0
Each vehicle drawn or impelled otherwise than by horses, ponies, mules, donkeys, bullocks or machinery	2	0	0
Each horse, pony or mule of a height of 12 hands or upwards	6	0	0
Each horse, pony or mule of a height of less than 12 hands... ..	2	0	0
Each bullock or buffalo kept for draft or pack purposes	1	0	0
Each donkey kept for draft or pack purposes or for riding	1	0	0

SCHEDULE H(a).

(SEE SECTION 192.)

Articles liable to payment of Town-duties.

Articles.	Maximum Rates of Town-duties leviable.
Grain of all sorts	6 annas per khandi.
Flour of all sorts	75 per centum of the rate at the time being levied on the grain from which the flour is prepared.
Wines and spirits	4 annas per imperial gallon.
Beer	6 pies per do.
Sugar, molasses and gúr	8 annas per cwt.
Ghi	10 annas per Bombay maund.
Timber, exclusive of railway sleepers	2½ per cent. of its market value.
Firewood... ..	2 annas per khandi.

SCHEDULE I.

(SEE SECTION 202.)

Form of Notice of Demand.

To
A. B.
residing at

Take notice that the Municipal Commissioner for the city of Bombay demands from (you) the sum of _____ due from (you) on account of (*here describe the premises, vehicle or animal on account of which the tax is leviable*) for the half-year (*or quarter*) commencing (*or ending*) on the _____ day of _____ 18 ; and that if the said sum is not paid into the municipal office at _____, or if sufficient cause for non-payment of the sum is not shown to the satisfaction of the commissioner within fifteen days from the service of this notice, a warrant of distress will be issued for the recovery of the same, with costs.

Dated this _____ day of _____ 18 .

(Signed)

Municipal Commissioner
for the city of Bombay.

SCHEDULE J.

(SEE SECTION 203.)

Form of Distress Warrant.

To *(here insert the name of the officer charged with the execution of the warrant.)*

Whereas A. B., of _____, has not paid, or shown sufficient cause, to my satisfaction, for the non-payment of the sum of _____ due for the tax* mentioned in the margin for the half-year (or quarter) commencing (or terminating) on the _____ day of _____ 18____, although the said sum has been duly demanded in writing from the said A. B., and fifteen days have elapsed since the service of the notice of demand;

This is to command you to distrain the goods and chattels of the said A. B. (or, as the case may be, any goods and chattels found on the premises in respect of which the said tax is due) to the amount of the said sum of _____, and such further sum as may be sufficient to defray the costs of recovering the said amounts; and if within five days next after such distress the said sum shall not be paid, together with such further sum as shall be sufficient to defray the said costs, to sell the said goods and chattels: and having paid and deducted out of the proceeds of the sale the said sum of _____ and the costs of recovering the same, to return the surplus, if any, and if the same be demanded within one year from the date of the sale, to the person whom you shall find in possession of the said goods and chattels.

If sufficient distress cannot be found of the goods and chattels of the said A. B. (or on the said premises, as the case may be) you are to certify the same to me together with this warrant.

Dated this _____ day of _____ 18____.

(Signed)

Municipal Commissioner
for the city of Bombay.

SCHEDULE K.

(SEE SECTION 205.)

Form of Inventory and Notice.

To

A. B.
residing at _____

Take notice that I have this day seized the goods and chattels specified in the inventory beneath this, for the sum of _____ due for the tax* mentioned in the margin for the half-year (or quarter) commencing (or terminating) on the _____ day of _____ 18____; and that unless you pay into the municipal office at _____ the amount due, together with the costs of recovery, within five days from the day of the date of this notice, the goods and chattels will be sold.

Dated this _____ day of _____ 18____.

(Signature of the officer
executing the warrant.)

Inventory.

(Here state particulars of the goods and chattels seized.)

SCHEDULE L.

(SEE SECTION 207.)

Table of Fees payable in Distraints.

Sum distrained for.								Fee.
								Rs. a.
Under 5 Rupees	...	...	...	...	...	...	...	0 4
Rupees 5 and under 10 Rupees	...	...	...	...	...	...	...	0 8
" 10 " 15	...	...	...	...	...	...	...	0 12
" 15 " 20	...	...	...	...	...	...	...	1 0
" 20 " 25	...	...	...	...	...	...	...	1 4
" 25 " 30	...	...	...	...	...	...	...	1 8
" 30 " 35	...	...	...	...	...	...	...	1 12
" 35 " 40	...	...	...	...	...	...	...	2 0
" 40 " 45	...	...	...	...	...	...	...	2 4
" 45 " 50	...	...	...	...	...	...	...	2 8
" 50 " 60	...	...	...	...	...	...	...	3 0
" 60 " 80	...	...	...	...	...	...	...	3 12
" 80 " 100	...	...	...	...	...	...	...	4 8
Above 100 Rupees	...	...	...	...	...	...	...	5 0

The above fees are to include all expenses except when peons are kept in charge of property distrained, in which case four annas must be paid daily for each peon so employed.

SCHEDULE M.

(SEE SECTIONS 394 AND 395.)

Purposes for which premises shall not be used without a license.

- (1) Casting metals;
- (2) Manufacturing bricks or tiles;
- (3) Packing, pressing, cleansing, preparing or manufacturing, by any process whatever, any of the following articles, *viz.* :—

Cloths in indigo or other colours.

Pottery.

Paper.

Silk.

- (4) Storing, packing, pressing, cleansing, preparing or manufacturing, by any process whatever, any of the following articles, *viz.* :—

Blood.
Bones.
Candles.
Catgut.
Chemical preparations.
China grass.
Cocoanut fibre.
*Cotton and cotton refuse or seed.
Dammer.
Dynamite.
Fat.
Fins.
Fish.
Fireworks.
Flax.
Fulminate of mercury.

Gas.
Gun cotton.
Gunpowder or blasting powder.
Hemp.
Hides.
Horns.
Hoofs.
Hair.
Jute.
Kerosine oil.
Lime.
Matches for lighting.
Manure.
Meat.
Nitro-glycerine.
Oil.

Oil-cloth.
Offal.
Petroleum oil.
Paraffin oil.
Rags.
Rosin.
Rangoon or Burmah oil.
Soap.
Sulphur.
Saltpetre.
Spirits.
Skins.
Tallow.
Tar or pitch.
Tow.
Turpentine.
Wool.

*The storing of pressed bales of cotton is excepted.

SCHEDULE N.

(SEE SECTION 444.)

Particulars to be specified in the Register of Births.

Serial number.

Date of birth.

Place of birth ... { District,
Sub-district,
Ward-No. of house (*i.e.*, its distinguishing number under cl. (a) of S. 156.
Street or wádi,
No. of house in street or wádi,

Parents ... { Names (and surnames, if any),
Occupation or profession,
Place of birth,
Duration of residence in Bombay... { Years,
Months,
Days,

Mother being ... { Only wife now alive.
One of two wives, both now alive.
One of three or more wives, all now alive.

Mother being unmarried.

Child ... { Born alive.
Still-born.
Sex.
Race, caste or nationality.
Name, if any.

NOTE.—In the case of the birth of a Hindu, the particular sub-division of his caste should be given. Christians should be separated into those of pure European parentage; those of mixed blood, viz., Indo-Europeans; and those of pure Asiatic parentage, viz., Native Christians. Negro-Africans or Siddis should be registered as such, and not as Mussulmans. In the case of Europeans, their religion should be specified.

SCHEDULE O.

(SEE SECTION 444.)

Particulars to be specified in the Register of Deaths.

Serial number.

Date of death.

Abode ... { District,
Sub-district,
Ward-No. of house (*i.e.*, its distinguishing number under cl. (a) of S. 156).
Street or wádi,
No. of house in street or wádi,

Duration of residence in Bombay. { Years,
Months,
Days,

If a stranger to Bombay, or lately arrived, wherefrom... { Village,
Táluka,
District,

Name (and surname, if any),

Sex,

Race, caste or nationality,

Age ... { Years,
Months,
Days,
Still-born,

Occupation or profession of deceased or of his or her family,

Place of birth ... { If in Bombay ... { District,
Street or wādi
No. of house,
If out of Bombay... { Village,
Talukā,
District,

Country to which family belongs,

Cause of death,

Duration of { Years,
Months,
Days,
Hours,

Name and residence of medical attendant,

Place of disposal of dead, No. { Buried,
Burnt,
Exposed,

SCHEDULE P.

(SEE SECTION 450.)

Certificate of Cause of Death.

I do hereby certify that I attended the deceased during his last illness, and that the cause of his death was, to the best of my belief, (here state particulars.)

Date

(Signed)

Medical Designation or Diploma.

SCHEDULE Q.

(SEE SECTION 453.)

Form certifying Name given in Baptism.

I of , do hereby certify, that on the 18 , I baptized by the name of a male child produced to me by as the of , and declared by the said to have been born at , on the 18 .

(Signed by Officiating Minister.)

Date

Form certifying Name given not in Baptism.

I do hereby certify that the male child born on the 18 , at , to and his wife, and registered in the district of on the 18 , has received the name of

(Signed by father or mother, &c.)

Date

SCHEDULE R.

(SEE SECTION 528.)

Transitory Provisions.

1. (1) The corporation in existence on the day before this Act comes into force shall

The corporation in existence when this Act comes into force to be the corporation till 1st April, 1889.

be the corporation for the purposes of this Act until the first day of April, 1889; and every casual vacancy which occurs in the said corporation after the passing of this Act shall be filled up in the same manner in which it would have been filled up if this Act had not been passed.

- (2) On the first day of April, 1889, the members of the said corporation shall retire from office, but unless disqualified, they shall be eligible for being councillors after the said date.

2. For the purpose of any election to fill a casual vacancy in the corporation under

List of voters, &c., for casual elections under S. 1 of this schedule.

sub-section (1) of the last preceding section, the list prepared under section 9D of the Bombay Municipal Acts of 1872 and 1878 during the first half of the year 1887-88 shall continue in operation until the first day of April, 1889.

3. The person who, on the day before this Act comes into force, is the chairman

President of the corporation until 1st April, 1889.

of the corporation shall, until the first day of April, 1889, be deemed to be the president of the corporation for the purposes of this Act, unless in the meantime a casual vacancy occurs in the office. If any such casual vacancy occurs before the last-mentioned day, it shall be filled up in accordance with the provisions of sub-section (3) of section 37.

4. The town council in existence on the day before this Act comes into force shall

The town council in existence when this Act comes into force to be the standing committee till the first standing committee is appointed under this Act.

be deemed to be the standing committee for the purposes of this Act until the first appointment of a standing committee under section 43; and every casual vacancy which occurs in the said committee after the passing of this Act shall be filled up in the same manner in which a vacancy in the town council would have been filled up if this Act had not been passed.

5. The person who, on the day before this Act comes into force, is the chairman

Chairman of the standing committee until the first standing committee is appointed under this Act.

of the town council shall be the chairman of the standing committee until the first appointment of a standing committee under section 43, unless in the meantime a casual vacancy occurs in the office. If any such casual vacancy occurs, it shall be filled up in accordance with the provisions of sub-section (3) of section 44.

6. The commissioner and the deputy commissioner, if any, and all municipal officers,

Continuance of present commissioner and municipal officers and servants in office.

and servants holding office on the day before this Act comes into force, shall be deemed to have been appointed under this Act and, until an order to the contrary is passed by competent authority under this Act, shall continue to hold, respectively, the same or the corresponding offices under this Act and to receive the same emoluments.

7. The standing committee may, with the approval of the corporation, grant to the

Personal allowance to present
municipal secretary.

municipal secretary, in addition to his maximum monthly salary of one thousand rupees, a personal allowance not exceeding two hundred rupees monthly in consideration of such secretary's long and approved service, so long as the office is held by the same person who, on the day when the Bombay Municipal Acts Amendment Act, 1882, came into force, was secretary of the town council and clerk of the municipal corporation.

8. Any budget-estimate adopted by the corporation under the provisions of the Bombay Municipal Acts of 1872 and 1878, which, if this

Continuance in operation of
budget-estimate adopted before the
passing of this Act.

Act had not been passed, would have had operation after the date on which this Act comes into force, shall, subject to the provisions of sections 131 to 134, both inclusive, continue in operation as if this Act had not been passed.

XVI/96
9.20/12
24.1.11

9. (1) The several rates, taxes, tolls and duties the rates for levy of which were fixed

Rates and taxes sanctioned for the
current year in which this Act comes
into force to continue leviable for
that year.

by the corporation under the said Acts for the period during which any such budget-estimate is in operation shall, subject to the provisions of section 196, be leviable in respect of the said period, as if the rates for levy thereof had been determined by the corporation under this Act, notwithstanding that the said rates, taxes, tolls and duties, or any of them, may have been fixed at rates or on articles at or on which corresponding taxes are not imposable under this Act.

(2) Sections 144 and 145 shall have operation on and from the first day of April, 1889, only; and the sums payable to the corporation in respect of the period aforesaid by the Secretary of State for India in Council or by the Trustees of the Port of Bombay in lieu of property rates, under the said Acts or under Section 36 of the Bombay Port Trust Act, 1879, respectively, shall be paid as if this Act had not been passed.

10. Any assessment-book made by the commissioner under the said Acts, which, if

Assessment-book made before this
Act comes into force to continue
valid.

this Act had not been passed, would have had effect after the date on which this Act comes into force, shall, subject to the provisions of sections 167, 217, 218 and 219, have the same effect as if this Act had not been passed.

11. The amount of contribution towards the protection of the city from fire, which

Contributions towards the fire-
brigade in the year in which this
Act comes into force.

has been determined by the town council under section 122 of the Bombay Municipal Acts of 1872 and 1878, to be due by any insurance company carrying on business in Bombay or having an agency for such purpose for the official year in which this Act comes into force, shall continue due as if this Act had not been passed.

12. In preparing, on or before the first day of October, 1888, the first ward-lists under

Preparation of first ward-lists
under section 19.

section 19, the qualifying-tax in clause (c) of section 11 shall be taken to mean either of the taxes or the aggregate of the taxes specified in sub-section (3) of section 11 levied for the half-year from the first day of April to the thirtieth day of September, 1888, whether according to the provisions of this Act or of the Bombay Municipal Acts of 1872 and 1878 and the consolidated tax levied under the last-named Acts shall be deemed to be the general tax specified in sub-section (3) of section 11.

Sch. R—Section 9 as here printed is substituted for the original by S. 8 of Bombay Act IV. of 1888.

13. (1) All proceedings instituted under any Act hereby repealed and still pending when this Act comes into force before the Chief Presidency Magistrate, shall be continued and determined by the said Magistrate as if this Act had not been passed; and every decision of the said Magistrate in any such proceeding shall have the same validity as if this Act had not been passed.

(2) Any legal proceeding which might, but for the passing of this Act, have been instituted before the Chief Presidency Magistrate, but which under this Act is within the cognizance of the Chief Judge of the Small Cause Court, shall, if commenced on or after the first day of November, 1888, be instituted before the Chief Judge of the Small Cause Court.

(3) Any such legal proceeding as aforesaid which is commenced before the said date and any legal proceeding commenced after the date when this Act comes into force but before the first day of November, 1888, which under the provisions of this Act should be instituted before the Chief Judge of the Small Cause Court, shall be instituted before the Chief Presidency Magistrate and be heard and determined by the said Magistrate; and the decision of the said Magistrate in every such proceeding shall have the same validity as if this Act had not been passed or as if such decision had been made by the Chief Judge of the Small Cause Court, as the case may be.

(4) If an application of the nature specified in section 504 is made to the Chief Presidency Magistrate or to the Chief Judge of the Small Cause Court in respect of any expenses or compensation which became claimable before this Act comes into force, such application shall be deemed to be in time if it is made within one year from the date of this Act coming into force.

Disposal of proceedings pending before the Chief Presidency Magistrate.

Legal proceedings which might, before the passing of this Act, have been heard by the Chief Presidency Magistrate, instituted, on and after 1st November, 1888, before the Chief Judge of the Small Cause Court.

Jurisdiction of Chief Presidency Magistrate continued till 1st November 1888.

Period of limitation for applications under section 504 in respect of claims which arose before this Act comes into force.

Bombay Act No. IV. of 1888.

PUBLISHED BY THE GOVERNOR OF BOMBAY ON THE
20TH DECEMBER, 1888.

An Act to amend the City of Bombay Municipal Act, 1888.

WHEREAS it is expedient to amend the City of Bombay Municipal Act, 1888, in manner hereinafter appearing; It is enacted as follows:—

Short title. 1. This Act may be cited as “The City of Bombay Municipal Act Amendment Act, 1888.”

Section 7 shall come into force on the first day of April, 1889; the rest of this Act shall come into force at once.

Commencement.

2. In section 106 of the City of Bombay Municipal Act, 1888, the words “General of India” shall be inserted after the word “Governor”.

Amendment of S. 106 of Bo. Act III. of 1888.

3. In clause (c) of section 109 of the said Act, the words "the Governor General of India in Council" shall be substituted for the word "Government".
 Amendment of S. 109 of Bo. Act III. of 1888.

4. In sub-section (1) of section 138 of the said Act, the word "and" shall be substituted for the words "provided that" and the words "as determined by the Governor in Council, shall" for the words "shall not, without the consent of the corporation".
 Amendment of S. 138, sub-s. (1) of Bo. Act III. of 1888.

5. (1) The words "Her Majesty" shall be substituted for the words "the Secretary of State for India in Council"
 Amendment of Ss. 89, 100, 143, 144, 181, and 299 of Bo. Act III. of 1888.

(a) whenever they occur in sections 89, 100, 181, clause (c) and 299, sub-section (2) of the said Act ;

(b) the first time they occur in section 143, clause (b) of the said Act ; and

(c) the first and last times they occur in section 144, sub-section (2) of the said Act.

(2) In section 144, sub-section (1) of the said Act the words "Her Majesty" shall be substituted for the word "him."

6. In section 308, sub-section (2) of the said Act, after the word "section", the words "or of section 196 of the Bombay Municipal Act, 1872," shall be inserted.
 Amendment of S. 308, sub-s. (2) of Bo. Act III. of 1888.

7. In the schedule H annexed to the said Act, the lines :
 Amendment of sched. H of Bo. Act III. of 1888.

"Petroleum, as defined in the Petroleum Act, 1886 6 pies per imperial gallon"

shall be repealed.

8. For section 9 of the Schedule R annexed to the said Act the following section shall be deemed to have been substituted from the date on which that Act came into force, viz. :—

“9. (1) The several rates, taxes, tolls and duties the rates for levy of which were fixed by the Corporation under the said Acts for the period during which any such budget estimate is in operation shall, subject to the provisions of section 196, be leviable in respect of the said period, as if the rates for levy thereof had been determined by the Corporation under this Act, notwithstanding that the said rates, taxes, tolls and duties, or any of them, may have been fixed at rates or on articles at or on which corresponding taxes are not imposable under this Act.

(2) Sections 144 and 145 shall have operation on and from the first day of April, 1889, only; and the sums payable to the Corporation in respect of the period aforesaid by the Secretary of State for India in Council or by the Trustees of the Port of Bombay in lieu of property rates, under the said Acts or under section 36 of the Bombay Port Trust Act, 1879, respectively, shall be paid as if this Act had not been passed.”

Bombay Act No. V. of 1888.

PUBLISHED BY THE GOVERNOR OF BOMBAY ON THE 19TH JANUARY, 1889.

THE ADEN PORT TRUST ACT, 1888.

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An Act to vest the Port of Aden in a Trust.

WHEREAS it is expedient to vest the port of Aden in a trust and to provide for the management of the affairs of the said port by trustees: It is enacted as follows:—

I.—PRELIMINARY.

Short title.

1. This Act may be called "The Aden Port Trust Act, 1888."

Definitions.

2. In this Act, unless there be something repugnant in the subject or context,—

"port";

(a) "port" means the port of Aden as defined for the purposes of this Act;

(b) "high-water mark" means a line drawn through the highest points reached by ordinary spring-tides at any season of the year;
 "high-water mark";

(c) "low-water mark" means a line drawn through the lowest points reached by ordinary spring-tides at any season of the year;
 "low-water mark";

(d) "land" includes the bed of the sea below high-water mark, and also things attached to the earth or permanently fastened to anything attached to the earth;
 "land";

(e) "master," when used in relation to any vessel, means any person having for the time being the charge or control of such vessel;
 "master";

"goods"; (f) the word "goods" includes wares and merchandise of every description;

(g) "owner," when used in relation to goods, includes any consignor, consignee, shipper or agent for the sale or custody of such goods; and when used in relation to any vessel, includes any part-owner, charterer, consignee, or mortgagee in possession thereof.
 "owner".

3. (1) The Governor in Council may, by notification in the *Bombay Government Gazette*, define the limits of the port for the purpose of this Act, and may from time to time by a like notification alter such limits.
 Power to define and alter limits of port.

(2) Such limits may extend to any part of the navigable approaches to the port, and may include any wharves, tramways, warehouses, sheds and other works made on behalf of the public for convenience of traffic, for safety of vessels, or for the improvement, maintenance, and good government of the port, whether within or without high-water mark, and, subject to any rights of property therein, any portion of the shore within fifty yards of high-water mark.

II.—OF THE BOARD OF TRUSTEES.

Constitution of Board.

4. The duty of carrying out the provisions of this Act shall, subject to such conditions and limitations as are hereinafter contained, be vested in a board to be called "The Trustees of the port of Aden"; and such
 Act to be carried out by trustees.

board, hereinafter referred to as "the board," shall be a body corporate and have perpetual succession and a common seal, and shall sue and be sued by the name first aforesaid.

5. The board shall consist of such number of trustees as shall from time to time be fixed by Government, the same being not less than six.

Number of trustees.

6. The First Assistant Resident at Aden, the Executive Engineer, Aden, the Port Surgeon, Aden, and the senior officer of the Royal Engineers for the time being stationed at Aden, or in the absence of any of the abovementioned officers the officer acting for him, shall be *ex-officio* trustees, and the First Assistant Resident at Aden, or in his absence the officer acting for him, shall be *ex-officio* chairman of the board.

Appointment of *ex-officio* trustees and chairman.

7. The rest of the trustees shall be appointed by Government, and of these such number as shall from time to time be fixed by Government, shall not be public officers.

Appointment of other trustees.

8. The names of all trustees other than the *ex-officio* trustees shall be published in the *Bombay Government Gazette*.

Publication of names of non-official trustees in the official gazette.

9. The term of office of the first trustees shall commence on such date as shall be notified in this behalf by the Governor in Council.

Term of office of first trustees when to commence.

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10. Every trustee, other than the *ex-officio* trustees, shall, unless he becomes in the meantime disqualified, hold office for a term of two years.

Length of term of office of non-official trustees.

11. (1) In the event of the death, resignation or disqualification of a trustee other than an *ex-officio* trustee, or of his becoming incapable of acting previous to the expiry of his term of office, the vacancy shall be filled up, as soon as it conveniently may be, by the appointment of a person thereto, who shall hold office so long only as the trustee in whose place he is appointed would have held it, if the vacancy had not occurred.

Filling up of casual vacancies.

(2) If a trustee other than an *ex-officio* trustee departs from Aden with an intention of being absent for a longer period than three months, or if a trustee shall have been absent from Aden for such period, a person shall be appointed to act for such trustee during his absence, or until he shall cease to be a trustee, and the person so acting shall be deemed for all the purposes of this Act to be a trustee.

Acting trustees.

S. 9.—The 1st April, 1889 is the date so notified. See G. G. 1889, p. 2 19.

12. A person who has already been a trustee on one or more occasions shall, if not disqualified under section 13, be again eligible at any time for appointment.
- Re-eligibility of trustees.

Disqualifications of Trustees.

Disqualifications for office of trustee. 13. (1) No person shall be qualified to be a trustee :

- (a) who, under any law for the time being in force, is an uncertificated bankrupt or an undischarged insolvent, or
- (b) who, unless he is an *ex-officio* trustee, holds any office or place of profit under the board, or
- (c) who, unless as aforesaid, has, directly or indirectly, any share or interest in any work done by order of the board, or in any contract, or employment with, by, or on behalf of the board ; or
- (d) who has been sentenced by a criminal court to imprisonment or to whipping for an offence punishable with imprisonment for a term exceeding six months, or to transportation, such sentence not having been subsequently reversed or quashed, and whose disqualification on account of such sentence has not been removed by an order, which the Governor in Council is hereby empowered to make, if he shall think fit, in this behalf ;

and any trustee who—

Trustee who becomes disqualified to cease to be a trustee.	(e) becomes disqualified for any of the aforesaid reasons, or
--	---

- (f) is absent from the meetings of the board for a period exceeding six consecutive months, or, without the permission of the board, from six consecutive meetings of the board,

shall cease to be a trustee, and his office shall thereupon become vacant :

Proviso. (2) Provided always that no trustee shall vacate his office by reason only of his—

- (g) having a share in any joint-stock company which shall contract with or be employed by, or on behalf of, the board, or
- (h) having a share or interest in any newspaper in which any advertisement relating to the affairs of the board may be inserted, or
- (i) being interested in any loan of money to the board.

Remuneration of Trustees.

14. Every trustee ~~who is not a public officer~~ shall be entitled to a fee of such amount ^{not exceeding Rs 100} as shall from time to time be prescribed by Government, for each meeting of the board at which a quorum is present and business is transacted, and which he attends from the beginning to the end thereof: Provided that if more than one such meeting is held in any one month no more than one fee shall be paid to any trustee for his attendance at all or any such meetings during that one month. ^{his act is not a public officer's act}

Fee payable to non-official trustees. ^{to be paid by Govt}

Proceedings of Board.

15. The following provisions shall be observed with respect to the proceedings of the board (namely)—

Provisions concerning the board's proceedings.

(1) During any vacancy in the board the continuing trustees may act as if no vacancy had occurred.

Vacancy not to affect board's proceedings.

(2) The board shall meet together and shall from time to time make such arrangements, not inconsistent with this Act, with respect to the place, day, hour, notice, management, and adjournment of such meetings, and generally with respect to the transaction of business, as they think fit, subject to the following conditions (namely):—

Board to meet together and arrange for transaction of business as they think fit, but

(a) that two ordinary meetings there must be two ordinary meetings in each month, and at least shall be held in every month;

(b) that the chairman may, whenever he thinks fit, and shall, upon the written request of not less than three trustees, call a special meeting; ^{a special meeting may be called whenever necessary, and}

(c) that no business shall be transacted at any meeting unless at least three trustees are present from the beginning to the end of such meeting; ^{three trustees shall form a quorum, and}

(d) that every meeting shall be presided over by the chairman, if he is present at the time appointed for holding the same, and, if he is absent, by such one of the trustees present as may be chosen by the meeting;

every meeting shall be presided over by the chairman, and

(e) that all questions shall be decided by a majority of votes of the trustees present, the president having a second or casting vote in all cases of equality of votes ;

all questions must be decided by a majority of votes, and

(f) that if a poll be demanded, the names of the trustees voting and the nature of their votes shall be recorded by the president ;

votes must be recorded if a poll is demanded, and

(g) that minutes shall be kept of the names of the trustees present and of the proceedings at each meeting, in a book to be provided for this purpose, which shall be signed, as soon as practicable, by the president of such meeting, and shall be open to inspection by any trustee during office hours.

minutes of proceedings must be kept.

(3) The board may delegate any of their powers to committees consisting of such trustees as they think fit. Any committee so formed shall conform to any instructions that may from time to time be given to them by the board, and the board may at any time discontinue or alter the constitution of any committee so formed.

Board may delegate powers to committees.

(4) A committee may elect a chairman of their meetings and, if no such chairman is elected, or if he is not present at the time appointed for holding the same, the members present shall choose one of their number to be chairman of such meeting.

Committees' meetings to be presided over by a chairman.

(5) Committees may meet and adjourn as they think proper, but the chairman of the board may, whenever he thinks fit, and shall, upon the written request of not less than two members of a committee, call a special meeting of such committee.

Committees when to meet.

(6) Questions at any meeting of a committee shall be decided by a majority of votes of the members present, and, in case of an equal division of votes, the chairman of the meeting shall have a second or casting vote, but no business shall be transacted at any such meeting unless at least two-thirds of the members of the committee are present from the beginning to the end thereof.

Questions how to be decided at committees' meetings.

(7) No act of the board, or of any committee, or of any person acting as trustee, shall be deemed to be invalid by reason only of some defect in the appointment of such board, committee, or trustee, or on the ground that they, or any of them, were disqualified for the office of trustee.

Acts of board, &c., not to be invalidated by informalities.

16. (1) The chairman may, on behalf of the board, enter into any contract or agreement, whereof the value or amount shall not exceed one thousand rupees, in such manner and form as, according to the law for the time being in force, would bind him if such contract or agreement were on his own behalf; but every other contract and agreement on behalf of the board shall be in writing, and shall be signed by the chairman and by two other trustees, and shall be sealed with the common seal of the board.

(2) No contract or agreement not executed as aforesaid shall be binding on the board :

(3) Provided that the signatures of the chairman and two other trustees may be engraved, lithographed, or impressed by any mechanical process, on coupons attached to debentures which the board is at any time authorized to issue under the Local Authorities Loan Act, 1879, or other law for the time being in force, and the signatures so engraved, lithographed or impressed shall have the same validity as if they were written in the proper handwriting of the chairman and other trustees.

17. The board may compound or compromise for or in respect of any claim or demand made against them for such sum of money, or other compensation, as they shall deem sufficient.

The board may compound for claims against them.

The Chairman.

Duties of chairman.

18. The chairman shall—

- (a) attend every meeting of the board, unless prevented by sickness or other reasonable cause ;
- (b) exercise supervision and control over the acts and proceedings of all officers and servants of the board in matters of executive administration, and in matters concerning the accounts and records of the board ; and, subject to the regulations at the time being in force framed by the board under section 20, dispose of all questions relating to the service of the said officers and servants, and their pay, privileges, and allowances ;
- (c) furnish to Government a copy of the minutes of any of the board's proceedings, and any returns or other information which Government may from time to time call for.

III.—OF THE OFFICERS AND SERVANTS OF THE BOARD.

Strength of Staff.

19. (1) The board shall from time to time prepare and sanction a schedule of the staff of officers and servants whom they shall deem it necessary and proper to maintain for the purposes of this Act. Such schedule shall also set forth the amount and nature of the salaries, fees, and allowances which the board sanctions for each such officer or servant.

(2) ~~Until a schedule is prepared and sanctioned under this section, the~~ staff of officers and servants maintained, on the day previous to the date notified by the Governor in Council under section 9, under the authority of Government, on the establishment of the Aden port fund, and the officers and servants, if any, maintained on the said day by Government at the cost of the provincial revenues for employment in the Aden harbour, shall be deemed to be the staff sanctioned by the board under the foregoing provisions.

(3) And all officers and servants holding any office on the said day and to have been appointed on the establishment of the Aden port fund, under this Act. and the officers and servants aforesaid, if any, employed by Government on the said day, shall be deemed to have been appointed under this Act, and shall continue to hold the same office, and to receive the same remuneration under the board, until it is otherwise directed under this Act :

Provisoos.

(4). Provided :

(a) that artisans, porters, and labourers, and mukadams of porters and labourers, and persons temporarily employed in the engineering department, shall not be deemed to be officers or servants within the meaning of this section, or of section 20, clauses (a) to (d), both inclusive, or of section 21 ;

(b) that if an officer is lent to the board by Government, the board shall make such contributions, if any, on account of his pension and leave allowances, as may be required by the rules in this behalf from time to time in force, and shall not, except with the consent of Government, dispense with his further services at any time, without giving to Government six months' previous notice ;

(c) that every officer and servant, if any, maintained by Government on the day ~~aforesaid~~ ^{1/12 March 1889} at the cost of the provincial revenues, for employment in connection with the Aden harbour, shall,

if he is entitled as a Government servant to pension and leave allowances, be deemed to be lent to the board on and from the date notified by the Governor in Council under section 9. *XVI/95-520*
14 April 1889. *σ=Δ.11*

Board to frame regulations : 20. The board shall from time to time frame regulations :

- for regulating leave ; (a) for regulating the grant of leave to the officers and servants of the board ;
- (b) for authorizing the payment of allowances to the said officers and servants, or to certain of them, whilst absent on leave ;
for settling absentee allowances ;
- (c) for determining the remuneration to be paid to the persons appointed to act for any such officers or servants during their absence on leave ;
for fixing acting allowances ;
- for regulating length of service ; (d) for regulating the period of service of all such officers and servants ;
- (e) for determining whether any of the said officers and servants, and if so which of them, shall on retirement receive pensions, gratuities or compassionate allowances, and whether compassionate allowances shall be paid to the surviving relatives of any of the said officers and servants who are killed in the execution of their duty, and if so to which of them, and the conditions under which such pensions, gratuities or compassionate allowances shall be payable and the amount of the same ;
for fixing pensions, &c. ;
- (f) for authorizing the payment of contributions at certain prescribed rates, and subject to certain prescribed conditions, to any provident fund which may be established by the board for the benefit of their officers and servants, or which, with their approval, may be established by their officers and servants themselves ;
for authorizing contributions to provident fund.

Provided that :

- (a) no regulation framed by the board under clause (e) shall have validity, unless or until the same has been sanctioned by Government :
Proviso.

(b) any pension or leave allowance payable to any officer or servant of Government employed in connection with the Aden harbour prior to the date notified by the Governor in Council under section 9, shall, in so far as the same has been earned during such employment, be a charge on the port fund and shall be defrayed thereout, on the requisition of Government, by the board.

XV/98.5.2/2/
17th 2.
1st April 1897.

Powers of Appointment, &c.

21. (1) Subject to the provisions of the said regulations and of the schedule for the time being in force framed by the board under section 19, the power of appointing, promoting, suspending, dismissing for misconduct, fining, reducing, or granting leave to the officers and servants of the board, shall be exercised by the chairman in the case of officers and servants whose monthly salary does not exceed one hundred rupees, and in every other case by the board.

(2) An appointment so made by the board shall not be held to be a contract or agreement within the meaning of section 16.

(3) The power of dispensing with the services of any officer or servant of the board, otherwise than by reason of such officer's or servant's own misconduct, or of permitting any such officer or servant to retire on a pension, gratuity, or compassionate allowance, shall, subject to the aforesaid provisions, be exercised by the board alone.

Every order of the chairman dismissing for misconduct an officer or servant whose monthly salary exceeds thirty rupees shall be subject to the approval of the board.

22. Every order or regulation made by the board under any of the three last preceding sections shall, so far as the same relates to any officer whose monthly salary is three hundred rupees or more, be subject to the previous sanction of the Political Resident at Aden when necessary.

IV.—OF THE PROPERTY AND LIABILITIES OF THE BOARD.

General Powers as to Property.

23. (1) The board shall, for the purposes of this Act, have power to acquire and hold moveable and immoveable property, whether within or without the limits of the port or settlement of Aden; and shall also have power to lease, sell or otherwise convey any moveable or immoveable property which may have become vested in or been acquired by them:

(2) Provided that no sale of immoveable property, and no lease of any such property for a term exceeding twenty-one years, shall be valid unless such sale or lease shall have been made with the previous sanction of Government.

Proviso.

24. (1) When the board are unable to acquire by agreement any immoveable property required for the purposes of this Act, Government may, in their discretion, order proceedings to be taken for acquiring the same on behalf of the board as if such property were land needed for a public purpose within the meaning of the Land Acquisition Act, 1870.

(2) The amount of compensation awarded and all other charges incurred in the acquisition of any such property shall be forthwith defrayed by the board, and thereupon the said property shall vest in the board.

25. (1) The property specified in schedule A shall, ~~upon and after the date notified by the Governor in Council under section 9,~~ ^{XVI/950.2} vest in the board: ^{(1) 17th 1888} ^{11.}

Transfer of Government property to the board.

Provisoes.

(2) Provided that—

(a) if any question arises between the Government and the board as to the boundaries of any portion of such property, Government may define and demarcate such boundaries, and the decision of Government in respect of such boundaries shall be final;

(b) any portion of the land specified in the said schedule which shall be required by Government for a public purpose may be resumed by Government without claim to compensation on the part of the board, except for buildings or other permanent structures erected by the board thereon;

(c) any work which the Governor General in Council may consider necessary in the public interests, may be executed by Government in or upon any of the property specified in the said schedule, without claim to compensation on the part of the board, except for buildings or other permanent structures erected by the board which it shall be necessary to clear away for the purposes of such work.

26. All debts and obligations incurred, all contracts entered into, and all matters and things engaged to be done by, with, or for the Political Resident on behalf of the Aden port fund, shall be deemed to have been incurred, entered into, or engaged to be done by, with, or for the board;

Transfer to the board of the Aden port fund's liabilities and claims.

and all sums of money due to the said Aden port fund, shall be deemed to be due to the board ;

and all suits or other legal proceedings, civil or criminal, instituted, or which might but for the passing of this Act have been instituted, by or against the said Political Resident as manager of the Aden port fund, may be continued or instituted by or against the board.

V.—OF THE POWERS AND DUTIES OF THE BOARD.

Works.

27. (1) The works to be constructed and carried out by the board may include the following :—

Works to be constructed.

- (a) cleaning, deepening, and improving any portion of the port, and the construction, procuring, and application, of dredges and other machinery for that purpose ;
- (b) wharves, quays, stages, jetties, piers and docks, with all necessary and convenient arches, drains, landing-places, stairs, fences, roads, railways, and approaches ;
- (c) tramways, warehouses, sheds, engines, and other appliances for conveying, receiving, and storing goods landed, or to be shipped, or otherwise ;
- (d) light-houses, light-ships, beacons, pilot-boats, and other appliances necessary for the safe navigation of the port and of the approaches thereto within a distance of three miles from the limits of the port ;
- (e) laying down moorings, and the erection of cranes, scales, and all means and appliances necessary for berthing, loading and unloading vessels ;
- (f) reclaiming, excavating, enclosing, and raising any part of the foreshore of the port vested in the board ;
- (g) procuring and employing steam-vessels for towing vessels into, out of, or within the port ;
- (h) the construction of such works, without the limits of the port, as shall be necessary for the protection of works executed by the board within the port, and all such other works and appliances as may, in the opinion of the board, be necessary or desirable for carrying out the purposes of this Act :

(2) Provided always that no new work, the estimated cost of which exceeds one thousand rupees, shall be commenced by the board, nor shall any contract be entered into by the board in respect of any such new work, until a plan and estimate of such work shall have been submitted to the board and considered and approved by them; nor shall any new work, the estimated cost of which exceeds fifty thousand rupees, or which forms part of a projected work, the whole of which is estimated or is likely to cost more than fifty thousand rupees, be commenced until such plan and estimate shall have been submitted to, and approved by, Government.

But no new work to be commenced without a plan and estimate, if its cost shall exceed Rs. 1,000;

nor without the sanction of Government to such plan and estimate, if the cost shall exceed Rs. 50,000.

28. The board shall provide such number of public landing-places as shall, in the opinion of the Political Resident at Aden, be sufficient, from and upon which the public shall be permitted to embark and to land free of charge.

Free landing-places to be provided.

29. The board may occupy, or remove, or alter any public bathing-place or landing-place within the port, and prohibit the public from resorting to or using the same: Provided that the board shall provide for the use of the public such other bathing-places or landing-places, if any, as the Political Resident at Aden may direct.

Removal of bathing- and landing-places.

Proviso.

Landing and Shipping of Goods.

30. When any wharf, quay, stage, jetty or pier has been made and completed, with sufficient warehouses, sheds and appliances for landing or for shipping goods from and in sea-going vessels, the board may, with the previous sanction of the Political Resident at Aden, by a notification published in three consecutive numbers of the *Bombay Government Gazette*, declare that such wharf, quay, stage, jetty or pier is ready for receiving, landing and shipping, or for landing or for shipping, as the case may be, goods from and in sea-going vessels.

Declaration that wharves, &c., are ready for receiving, landing and shipping goods.

31. When a sufficient number of wharves, quays, stages, jetties, piers, warehouses, sheds, and appliances have been provided as aforesaid, the board may, with the previous sanction of Government, by an order published in three consecutive numbers of the *Bombay Government Gazette*, direct that no goods, or that no goods other than a particular class or classes of goods, shall be landed or shipped from or in

If accommodation sufficient, all sea-going vessels compelled to use wharves, &c.

any sea-going vessel within the port, save at such wharves, quays, stages, jetties and piers, and may, in like manner, alter, vary or revoke any such order : Provided that no order shall be made under this section in respect of the landing or shipping of coals.

Proviso.

32. (1) When any wharf, quay, stage, jetty or pier for receiving, landing, or shipping goods from or in vessels, not being sea-going vessels, has been made and completed by the board, with sufficient warehouses, sheds and appliances in that behalf, the board may, with the sanction of the Political Resident at Aden, by an order published in three consecutive numbers of the *Bombay Government Gazette*, declare :

Inland vessels compelled to use wharves, &c.

- (a) that such wharf, quay, stage, jetty or pier is ready for receiving, landing and shipping goods from or in vessels, not being sea-going vessels ; and
- (b) that, within certain prescribed limits within the port to be specified in such order, it shall not be lawful to land or ship any goods from or in any vessel not being a sea-going vessel of any class specified in such order, except at such wharf, quay, stage, jetty or pier, nor for any such vessel, while within such limits, to anchor, fasten or lie within fifty yards of low-water mark without the consent of the board.

(2) If after such publication any such vessel, while within such limits, so anchors, fastens or lies, the board may cause the same to be removed out of the said limits.

(3) The board may in like manner, and with the like sanction, alter, vary or revoke any such order.

Exemptions from obligation to use wharves, &c.

33. (1) Notwithstanding anything contained in sections 31 and 32 :

(a) the Political Resident at Aden may, by notification in the *Bombay Government Gazette*, from time to time permit certain specified vessels or classes of vessels to discharge or ship cargo, or certain specified cargo or classes of cargo, at such part of the port, in such manner, during such period, subject to such payments, and on such conditions, as he may think fit, and otherwise grant exemption from the provisions of the said sections ;

(b) military or naval munitions or stores may be landed or shipped at any time and at any place within the limits of the port which the Political Resident at Aden may deem convenient.

(2) The Political Resident at Aden may, by like notification, cancel or modify any notification made by him under clause (a) of sub-section (1).

(3) The Political Resident at Aden may also at any time require that troops and their baggage, and military or naval munitions or stores, be landed or shipped with the least practicable delay, in preference to all other passengers or goods at the time awaiting landing or shipping; and it shall be incumbent on the board to give effect to any such requisition.

34. (1) Whenever any goods are landed by the board from any vessel, the board shall, if so required, give to the master of such vessel a receipt in the form or to the effect set forth in schedule B, and may in any such receipt include all goods landed from such vessel during one day.

(2) No master or owner of a vessel from which the goods in respect of which such receipt is given may have been landed, shall be liable for any loss or damage to such goods which may occur after they have been so landed.

Customs wharves, &c.

35. When Government appoint under the provisions of any Act for the levy of Sea Customs duties any wharf, quay, stage, jetty, or pier, to be a wharf or place for the landing and shipping of goods within the meaning of such Act, the board shall set apart, maintain, and secure on or in such wharf, quay, stage, jetty, or pier, such portion thereof or place therein, or adjoining thereto, for the use of the officers of Customs as the Political Resident at Aden approves or appoints in that behalf.

36. Notwithstanding that any wharf, quay, stage, jetty, or pier, or portion thereof, has, under the provisions of the last section, been set apart for the use of the officers of Customs, all rates, tolls, charges, and rents payable under this Act in respect thereof, or for the use thereof, shall be paid and be payable to the board or to such persons as they may appoint to receive the same.

Erection of Wharves, &c., by private persons.

37. (1) Save as hereinafter provided, no person except the board shall, ~~after the date on which this Act comes into~~ ^{xvii/95} force, make, erect, or fix below high-water ^{0.2(1) of} mark within the port any wharf, dock, quay, ^{ack I} stage, jetty, pier, erection, or mooring.

(2) Any matter or thing so made, erected, or fixed, may be removed by the board, and the person who has so made, erected, or fixed any such matter or thing shall be punished with fine, which may extend to one thousand rupees, and with a further fine which may extend to one hundred rupees for every day during which such matter or thing has been permitted to remain so made, erected, or fixed after notice to remove the same has been given to him, and shall also be liable to pay all expenses which may have been incurred by the board in removing such matter or thing.

38. The board may, by an order in writing and subject to the conditions contained in the same, permit any person to make, erect, or fix below high-water mark within the port any wharf, dock, quay, stage, jetty, pier, erection, or mooring.

Power to permit erection of private wharves, &c., within the port subject to conditions.

39. In case any wharf, dock, quay, stage, jetty, pier, erection, or mooring is, ~~after the date on which this Act comes into force~~, without the consent in writing of the Governor in Council, made, erected, or fixed below high-water mark without the limits for the time being of the port, and thereafter the limits of the port are extended so as to include the place in which such wharf, dock, quay, stage, jetty, pier, erection, or mooring has been made, erected, or fixed, the board may remove, fill up, or destroy such wharf, dock, quay, stage, jetty, pier, erection, or mooring without making any compensation therefor.

Wharves, &c., beyond port limits.

* 51/95 & 2 (1) & 7th J.P. 11.

Rates.

Scale of tolls, rates and charges to be framed,

40. (1) The board shall frame, and may from time to time alter—

- (a) a scale of tolls on the landing and shipping of goods from and in sea-going vessels and vessels not being sea-going vessels, respectively, at any place within the port;
- (b) a scale of rates for the use of the moorings, wharves, quays, stages, jetties and piers belonging to the board, and for the storing and keeping of any goods stored in any premises belonging to the board;
- (c) a scale of charges for the landing and shipping of goods by the servants of the board and for the removal of goods, and for any services to be performed by the board or their servants in respect of any vessel, or goods, or for the use of any works or appliances to be provided by the board.

(2) Such scales or altered scales shall be submitted, through the Political Resident at Aden, to Government and, after approval or modification by Government, shall be published in the *Bombay Government Gazette* with the approval of Government.

and shall thereupon have the force of law : Provided that no such scale or altered scale shall be approved or modified by
 Proviso. Government until a draft of the same and a notice specifying a date at or after which the draft will be submitted to Government shall have been published in the *Bombay Government Gazette* and in such other manner as Government from time to time prescribe.

(3) Nothing in sub-section (1) or (2) shall be deemed to authorize :

(a) the inclusion in any scale framed or approved thereunder of any toll, rate or charge in respect of military or naval munitions or stores, or, for such time as a vessel is landing or shipping any such munitions or stores, in respect of any such vessel ;

(b) the levy from officers and soldiers of Her Majesty's regular forces on duty or on the march, of any duties or tolls from which they are exempted by section 143 of the Army Act,

1881.

³(4) From the time when any scale framed under this section comes into force, the Bombay Landing and Wharfage Fees Act, 1882, shall be repealed so far as regards the port of Aden.

Tolls, rates and charges may be remitted in special cases.

41. Government may, in special cases, remit the whole or any portion of any toll, rate or charge leviable under the last preceding section.

42. Tolls on the landing and shipping of goods may be collected by officers and servants appointed by the board in this behalf, or by any person whom the board appoint to be their agent for this purpose, or may be farmed or compounded for, either wholly or in part, by the board for any period not exceeding one year at a time.

43. (1) For the amount of all tolls, rates, and charges leviable under this Act in respect of any goods, the board shall have a lien on such goods, which may be seized and detained until such tolls, rates, and charges are fully paid.

(2) Tolls, rates, and charges in respect of goods to be landed shall become payable immediately on the landing of the goods, and, in respect of goods to be removed from the premises of the board or to be shipped for export, shall be payable before the goods are removed or shipped or taken on board a lighter for the purpose of being shipped.

S. 40 (8) (b).—S. 143 of 44 and 45 Vic. c. 58 exempts from payment of any duties or tolls on embarking or disembarking from or upon any pier, wharf, quay, or landing-place, or in passing along or over any turn-pike or other road or bridge.

(3) The lien for such tolls, rates, and charges shall have priority over all other liens and claims, except a lien for freight, primage and general average, or for lighterage, where such lien has been preserved in the manner hereinafter provided, and a lien for money payable to Her Majesty or the Secretary of State for India in Council under any law for the time being in force.

44. (1) If, at or before the time of landing from any vessel of any goods at any wharf, quay, stage, jetty, or pier, belonging to the board, the master or owner of such vessel, or the person by whom the goods are landed, gives to the board notice in writing that such goods are to remain subject to a lien for freight, primage or general average, or for lighterage, as the case may be, of an amount to be mentioned in such notice, such goods shall continue liable, after the landing thereof, to such lien.

(2) Such goods shall be retained either in the warehouses and sheds of the board, or, with the consent of the Political Resident at Aden, in a public warehouse, at the risk and expense of the owner of the said goods, until the lien is discharged as hereinafter mentioned.

45. Upon the production to any officer appointed by the board in that behalf of a document purporting to be a receipt for, or a release from, the amount of any Discharge of lien for freight, &c. lien to which any goods are liable under the last preceding section, executed by the person by or on whose behalf notice of such lien has been given, the board may permit such goods to be removed without regard to such lien: Provided they shall have used reasonable care in respect to the authenticity of such document.

46. (1) Whenever goods which have been landed have, without any default on the part of the board, been left for five clear days on or in any wharf or shed belonging to the board, the board may cause Goods may be removed to warehouse. such goods to be removed either to any warehouse belonging to them, or, with the consent of the Political Resident at Aden, to a public warehouse; and the removal to and detention in any such warehouse shall be at the risk and expense of the owner of the said goods.

(2) Whenever any goods are so removed, the board shall give notice of such removal to the consignee of such goods or to his agent, if any, if such consignee's or agent's address be known, by letter sent by post to such address or left thereat; and the consignee of such goods, in addition to the expenses of the removal of the same, shall be liable, in case the goods are removed to any warehouse of the board, to a charge for warehousing for the time during which the goods shall remain in the said warehouse.

(3) If the goods are removed to a public warehouse, the said consignee shall be liable to the charges for warehousing goods in such public warehouse; and the said goods shall remain subject to all liens to which they would have been liable if they had remained in the possession of the board and shall be subject to the power of sale hereinafter given.

47. (1) If the tolls, rates, and charges payable to the board under this Act in respect of any goods are not paid, or if the lien for freight, primage, general average, or lighterage, where such notice as aforesaid has been given, is not discharged, the board may, and in the latter event, if required by or on behalf of the person claiming such lien for freight, primage, general average, or lighterage shall, at the expiration of four months from the time when the goods were seized or placed in their custody, sell by public auction the said goods, or so much thereof as may be necessary, to satisfy the amounts hereinafter directed to be paid out of the produce of such sale.

(2) Before making such sale, at least ten days' notice of the same shall be given by publication thereof by beat of tom-tom, and by posting notices at the public landing places within the settlement of Aden.

(3) If the address of the owner of the goods or of his agent has been stated on the manifest of the cargo, or in any of the documents which have come into the hands of the board, or is otherwise known, notice shall also be given to the owner of the goods or to his agent by letter delivered at such address or sent by post; but the title of a *bonâ fide* purchaser of such goods shall not be invalidated by reason of the omission to send such notice, nor shall any such purchaser be bound to enquire whether such notice has been sent:

(4) Provided that, if such goods are of so perishable a nature as, in the opinion of the officer appointed by the board in that behalf, to render early or immediate sale necessary or advisable, the board may, within such period, being not less than twenty-four hours after the landing of the goods, as they think fit, sell by public auction the said goods or such portion of them as aforesaid, in which event such notice, if any, shall be given to the owner of the goods or his agent as the urgency of the case admits of.

48. (1) The proceeds of every such sale shall be applied as follows:—

Application of sale proceeds.

(a) in payment of the expenses of the sale;

(b) in payment, according to their respective priorities, of the liens and claims excepted in section 43 from the priority of the lien of the board ;

(c) in payment of the tolls, rates and charges due to the board in respect of the goods.

(2) The surplus, if any, shall be paid to the owner of the goods, or to his agent, on his applying for the same :

Proviso.

Provided such application be made within one year from the sale, or reason be shown to the satisfaction of the board why such application was not so made, and, in case such application shall not be so made nor reason shown, such surplus shall be held by the board upon trust for the purposes of this Act.

49. (1) If the master of any vessel, in respect of which any tolls, rates, charges, or penalties shall be payable under this Act, or any by-law made in pursuance hereof, refuses or neglects to pay the same, or any part thereof, on demand, it shall be lawful for the board to distrain or arrest of their own authority such vessel, and the tackle, apparel, or furniture belonging thereto, or any part thereof, and detain the same until the amount so due shall be paid.

(2) And in case any part of the said tolls, rates, charges or penalties, or of the costs of the distress or arrest or of the keeping of the same, shall remain unpaid for the space of fifteen days next after any such distress or arrest shall have been so made, the board may cause the vessel, or other thing so distrained or arrested, to be sold, and with the proceeds of such sale may satisfy such tolls, rates, charges, or penalties, and costs of sale remaining unpaid, rendering the surplus, if any, to the master of such vessel on demand.

50. If the board shall give to the officer of Government whose duty it is to grant the port clearance of any vessel, a notice stating that an amount therein specified is due in respect of tolls, rates, charges or penalties chargeable under this Act, or any by-law or order made in pursuance hereof, against such vessel or the owner or master of such vessel, in respect thereof, such officer shall not grant such port clearance until the amount so chargeable shall have been paid.

51. The surplus, if any, of the moneys credited under section 47 of the Indian Ports Act, 1875, to the account of the Port Fund of Aden after defraying therefrom all expenses legally chargeable to the said account, shall be paid to the board.

Control of Pilots.

52. (1) The board shall have the right and privilege of maintaining pilots for the navigation of vessels at the port, and shall be bound to provide a sufficient number of pilots for that purpose, and all fees for pilotage shall be paid to the board: Provided that no person shall be appointed to be a pilot by the board who is not for the time being authorized by Government, under the provisions of the Indian Ports Act, 1875, to pilot vessels.

Trustees to be vested with the right and privilege of maintaining pilots,

(2) The board may also, from time to time, make such by-laws and regulations as they shall think fit—

(a) for fixing and regulating the wages and allowances for pilotage to be received by pilots, and

(b) for regulating the behaviour and conduct of pilots ;

and shall enforce the observance of such by-laws and regulations by the imposition of pecuniary penalties not exceeding two hundred rupees for each offence, or by suspension, or deprivation of appointment, or otherwise, as to them may appear expedient: Provided with the approval of Government that such by-laws shall first have been approved by Government, and published in the manner directed by section 54.

By-laws.

53. (1) The board may from time to time make by-laws, consistent with this Act and with the Indian Ports Act, 1875,—

Trustees empowered to make by-laws.

(a) for regulating, declaring and defining the wharves, quays, stages, jetties, and piers, on and from which goods shall be landed from and shipped in vessels within the port ;

(b) for the safe and convenient use of such wharves, quays, stages, jetties, piers, and of landing-places, tramways, warehouses, sheds and other works in and adjoining the same ;

(c) for regulating the reception and removal of goods within and from the premises of the board, and for declaring the procedure to be followed in taking charge of goods which may have been damaged before landing, or may be alleged to be so damaged ;

(d) for settling the mode of payment of tolls, charges, and rates levied under this Act ;

(e) for licensing and regulating water-boats and lighters within the port ;

(f) for the removal of wrecks from the port, and keeping clean the port, the foreshore, and the works of the board, and for preventing filth or rubbish being thrown therein or thereon ;

(g) for the guidance of persons employed by them under this Act, and generally for carrying out the purposes of this Act.

(2) The board may also from time to time alter or revoke any by-laws so made by them.

54. (1) No by-law, or alteration or revocation of a by-law, shall have effect until the same shall have been approved by Government, and such approval shall have been published in the *Bombay Government Gazette* ; and no by-law, or alteration or revocation of a by-law, shall be approved by Government, until a draft of the same, and a notice specifying a date at or after which the draft will be submitted to Government, shall have been published in the *Bombay Government Gazette*, and in such other manner as Government from time to time prescribe, nor unless the said draft shall have been submitted for their approval through the Political Resident at Aden.

(2) It shall be lawful for Government at any time, by notification in the *Bombay Government Gazette*, to cancel any by-law or regulation made and published under the provisions of this and of the two last preceding sections.

55. The board may, in the by-laws made under section 53, prescribe such penalties as they shall deem fit for the infringement of the same : Provided that no penalty for any one infringement of a by-law shall exceed one hundred rupees, nor, in case of a continuing infringement, shall any penalty exceed fifty rupees per diem for every day after notice of such infringement shall have been given by the board to the person guilty of such infringement.

56. The board shall cause the said by-laws, and every scale of tolls, rates, and charges leviable by the board, to be printed in the English, Gujaráti, and Arabic languages, and to be kept hung up in some conspicuous place at each of the several wharves, quays, stages, jetties, piers, warehouses, and sheds, belonging to the board.

VI.—OF REVENUE AND EXPENDITURE.

Management of Funds.

57. (1) All moneys raised by or paid to the board under this Act shall be kept in the Government Treasury at Aden, *as in the bank which is at the time appointed to conduct the business of H. M. Treasury here.*

Moneys where to be kept. *added by B on 2/9/88.*

(2) No disbursement of such moneys or any part thereof shall be made except upon a cheque signed by the chairman and one other trustee.

How to be disbursed.

(3) Payment of any sum in excess of five hundred rupees, if it relate to the Port Engineer's department, or of one hundred rupees, if it relate to any other department, shall be made by the board by means of a cheque signed as aforesaid, and not in any other way.

(4) Payments of sums not exceeding five hundred rupees each may be made on behalf of the board by the Port Engineer on account of any charge in his department, in cash, cheques for sums not in excess of five thousand rupees each, signed as aforesaid, being drawn from time to time in favour of the Port Engineer to cover such payments.

(5) In every department other than that of the Port Engineer, sums not exceeding one hundred rupees each may be paid, by such officer as the board appoints for this purpose, in cash, cheques for sums not in excess of five hundred rupees each, signed as aforesaid, being drawn from time to time in favour of such officer to cover such payments.

58. The moneys belonging to the board shall be held by them in trust, and, except as is hereinafter provided, shall be applied by them in payment of the following charges (namely):—

Moneys on what purposes to be expended.

(a) the salaries, fees, allowances, pensions, gratuities, compassionate allowances, or other moneys, due to the trustees, and to the officers and servants appointed under this Act, or lent to the board by Government, and the contributions, if any, payable to Government on account of the pension and leave allowances of any officer lent to the board by Government, and the contributions, if any, duly authorized to be made to any provident fund established by the officers and servants appointed under this Act;

(b) the cost of repairs and maintenance of the property vested in the board, and all charges upon the same and all working expenses;

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I/gg. r. s. (c) such sum as Government may from time to time require for the establishment and maintenance of police for the protection of the port and of the approaches thereto;

(d) the interest and instalments of capital due in respect of any loan that may have been raised by the board or for which it is liable;

(e) any charges for which the board may be liable under section 76 or section 77;

(f) the cost, or such portion of the cost, of any new work, plant, vessel, or appliance, which the board may determine to charge to revenue;

(g) any other charge which may be specially sanctioned by Government on the application of the board, or for which the board may be legally liable.

Annual Estimates.

59. (1) The chairman shall, at a special meeting to be held in the month of January in each year, lay before the board an estimate of the income and of the expenditure of the board for the year commencing on the first day of April then next ensuing, in such detail and form as the board shall from time to time direct.

(2) Such estimate shall be completed and printed, and a copy thereof sent by post, or otherwise, to each trustee, at least ten clear days prior to the meeting before which the estimate is to be laid.

60. The board shall consider the estimate so submitted to them, and shall sanction the same, either unaltered, or subject to such alterations as they shall think fit.

Board to revise and sanction the estimate.

61. The estimate, as sanctioned by the board, shall be submitted, through the Political Resident at Aden, to the Government, which may, if it thinks fit, at any time within one month after receipt of the same, disallow such estimate, or any portion thereof, and return the same for amendment. The board shall, if the estimate is so returned by Government, forthwith proceed to amend the same, and shall resubmit the estimate so amended, through the Political Resident at Aden, to the Government.

Estimate to be submitted to Governor in Council.

62. Together with the said estimate, the board shall submit, through the Political Resident at Aden, to the Government, a list of the works which the board propose to execute during the year to

List of works to accompany estimate.

which the estimate relates, showing the order in which the said works are to be executed, and the date within which each of them will probably be completed, or, in the case of any work which will not be completed within the year, the progress intended to be made therewith during the said year.

63. The board may, at any time during the year for which any such estimate has been sanctioned, cause a supplementary estimate to be prepared and submitted to them. Every such supplementary estimate shall be considered and sanctioned by the board, and submitted to the Government in the same manner as if it were an original annual estimate.

64. (1) Save in cases of pressing emergency no sum exceeding three thousand rupees shall be expended by or on behalf of the board, unless such sum is included in some estimate at the time in force which has been finally approved by Government.

No expenditure above Rs. 3,000 to be incurred unless sanctioned in an estimate.

(2) If any sum exceeding three thousand rupees in amount is so expended on a pressing emergency, the circumstances shall be forthwith reported by the chairman, through the Political Resident at Aden, to Government, together with an explanation of the way in which it is proposed by the board to cover such extra expenditure.

If incurred, to be reported to Government.

Audit of Accounts.

65. (1) The accounts of the receipts and expenditure of the board shall, twice in every year, be laid before Government, and shall be audited and examined in such manner and by such auditor or auditors as shall, from time to time, be appointed by Government.

Accounts to be audited and examined.

(2) For the purposes of such audit and examination the auditors may, by summons in writing, require the production before them of all books, deeds, contracts, vouchers, and all other documents and papers which they may deem necessary, and may require any person holding, or accountable for any such books, deeds, contracts, accounts, vouchers, documents, or papers, to appear before them at any such audit and examination, or adjournment thereof, and to make and sign a declaration with respect to the same.

Auditors to have power to call for books, &c.

(3) The auditors shall be paid by the board such remuneration as Government shall determine; and, within fourteen days after the audit and examination of the accounts for any half-year shall have

Their remuneration to be fixed by Government.

been completed, the auditors shall forward a report upon the accounts for such half-year to the board, who shall cause Their report to be published. the same to be published, together with an abstract of the accounts, in the *Bombay Government Gazette*.

Disposal of Balances.

66. (1) The board may invest any balance remaining on the thirty-first day of March of each year in public securities, and may from time to time sell the said securities, and either re-invest the proceeds in other such securities, or credit the same to the general funds of the board.

Balances may be invested by the board in public securities.

Amounts which may be so invested to be limited by Government.

(2) But the money so invested by the board shall not exceed such amount annually, or in the aggregate, as shall from time to time be prescribed by Government.

(3) In this section "public securities" means securities of the Government of India, and debentures or other securities issued by the board.

VII.—PENALTIES.

67. (1) Any person who being a trustee, or an officer or servant of the board, shall acquire, directly or indirectly, any share or interest in any contract or employment with, by, or on behalf of the board, shall be deemed to have committed the offence made punishable by section 168 of the Indian Penal Code :

For being interested in contracts with the board.

Proviso.

(2) Provided that nothing in this section shall apply to any person by reason only of his—

- (a) having a share in any joint-stock company which shall contract with, or be employed by, or on behalf of, the board ; or
- (b) having a share or interest in any newspaper in which any advertisement relating to the affairs of the board may be inserted ; or
- (c) being interested in any loan of money to the board.

68. Any person employed under this Act, not being a public servant within the meaning of section 21 of the Indian Penal Code, who shall accept or obtain, or agree to accept or attempt to obtain, from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a reward for doing, or forbearing to do, any official act, or for showing, or forbearing to show, in the exercise of his official

For obtaining illegal gratification.

functions, favour or disfavour to any person, or for rendering, or attempting to render, any service or dis-service to any person with the board or with any public servant as such, or with the Government, shall be liable to the same punishment as is provided by the Indian Penal Code in the case of the like offence committed by a public servant.

69. Whoever infringes any order issued under section 31 or 32, or any condition prescribed under section 33 or 38, shall be punished with fine which may extend to one hundred rupees; and, if the infringement be continuing, with a further fine which may extend to one hundred rupees for every day such order is infringed.

70. Any person who shall refuse or neglect to appear before any auditor of accounts, or to produce any books, deeds, contracts, accounts, vouchers, documents, or papers, or to make or sign any declaration, when duly required so to do by any auditor of accounts under section 65, shall be punished for every such neglect or refusal with fine which may extend to one hundred rupees.

71. If it be found when goods are imported at, or exported from, any wharf, quay, stage, jetty or pier in the possession of the board, that the weight or quantity of such goods, or the tonnage of any vessel carrying such goods, has been, in the opinion of the board, intentionally understated in any document presented to any officer of the board for the purpose of enabling him to determine the tolls, rates, or charges payable in respect of the said goods or vessel, the consignee, in the case of goods imported, and the consignor, in the case of goods exported, shall be liable to pay to the board such sum not exceeding twice the proper tolls, rates, or charges on the weight or quantity of goods or amount of tonnage so understated as may be determined by the board, and the said sum shall, on the application of the board, be recoverable under the warrant of a Magistrate of any class as if it were a fine inflicted by such Magistrate.

72. Any person who removes, or attempts to remove, or abets, within the meaning of the Indian Penal Code, the removal of any goods, vessel, animal, or vehicle with the intention of evading payment of the tolls, rates, or charges lawfully payable in respect thereof to the board shall be punished with fine which may extend to fifty rupees.

73. (1) In case any damage or mischief is done to any wharf, dock, quay, jetty, stage, pier, or work constructed or acquired by the board under this Act by any vessel, through the negligence of the master thereof or of any of the mariners or persons employed therein, not being in the service of the board, any Magistrate of the first class having jurisdiction at Aden may, on the application of the board, and on declaration by them that payment for such damage or mischief has been refused or has not been made on demand, issue a summons to the master or owner of such vessel, requiring him to attend on a day and at an hour named in the summons to answer touching such damage or mischief.

(2) If, at the time appointed in the summons, and whether the person summoned appears or not, it is proved that the alleged damage was done through such negligence as aforesaid, and that the pecuniary amount of the same does not exceed two hundred rupees, the Magistrate may issue his warrant of distress, under which a sufficient portion of the boats, masts, spars, ropes, cables, anchors, or stores of the vessel may be seized and sold to cover the expenses of and attending the execution of the distress, and the pecuniary amount of damage as aforesaid, and such amount shall be paid to the board out of the proceeds of the distress:

(3) Provided that if, at the time of the damage or mischief, the vessel was under the orders of a duly authorized officer belonging to the pilot service, or to the

Harbour Master's or Port Officer's department, the case shall not be cognizable by the Magistrate under this section, *under such damage or mischief is, as may be attributable to his order, act or improper attention of such officer.*

74. (1) Except as is otherwise provided in sections 71 and 73, all offences against this Act, or against a by-law made under section 53, shall be cognizable by a Magistrate of any class.

Cognizance of offences.

(2) All fines and damages recovered from any offender or by any distress under section 73 shall be paid to the board.

Disposal of fines.

75. Prosecutions under this Act may be instituted by the board, or by any person authorized by them in this behalf, and not otherwise.

Prosecutions.

VIII.—CONTROL.

76. The Governor in Council may at any time order a survey and examination of any work of the board under this Act, or of the site thereof, and the cost of such survey or examination shall be borne and paid by the board.

Government may order survey.

77. If the board allow any work acquired or constructed by them under this Act to fall into disrepair, or do not complete any work commenced by them, or duly estimated for and sanctioned, and do not, after notice given by Government in writing, proceed effectually to repair or complete such work to the satisfaction of the Governor in Council, Government may cause such work to be restored, completed, or constructed, and the cost thereof shall be borne and paid by the board.

78. If, in the opinion of the Governor in Council, the execution of any order or resolution of the board, or the doing of anything which is being done, or is about to be done, by or on behalf of the board, injuriously affects or is likely to affect the defensibility of Aden against Her Majesty's enemies, or the security or sanitary condition of the garrison, he may, by an order in writing, prohibit the execution or doing thereof.

(2) Pending the receipt of an order by the Governor in Council under this section, the Political Resident at Aden may, by a like order, suspend the execution or doing of anything by or on behalf of the board, which appears to him, for any of the reasons aforesaid, to be open to objection.

79. (1) If it shall at any time appear to the Governor in Council that sufficient provision is not being made by the board to meet their liabilities, the Governor in Council may require the board, by an order in writing, to increase, subject to his sanction, and to the provisions of section 40, to such extent and for such period as shall appear necessary, the tolls, rates, and charges, or any of them for the time being in force under the said section.

(2) If within fifteen days after receipt of such order the board do not comply with the same, the Governor in Council may, by notification in the *Bombay Government Gazette*, increase the said tolls, rates, charges, or any of them, and such notification shall have the same force as if a new scale to the same effect had been duly framed, sanctioned, and published under section 40.

80. (1) If at any time the Governor in Council is satisfied that the purposes intended to be accomplished under this Act have not been, and are not likely to be, properly accomplished by the board, the Governor in

Council may, by notification in the *Bombay Government Gazette*, give notice that, unless within six months the board take measures to the satisfaction of the Governor in Council for properly accomplishing such purposes, the powers by this Act conferred on the board will, at the end of such period, be withdrawn and revoked.

(2) On the expiration of the period aforesaid, the Governor in Council may, if no such measures to his satisfaction have been taken by the board, declare such powers to be withdrawn or revoked, and thereupon such powers shall be withdrawn and revoked accordingly, and all the powers, rights, and authorities, and all the property vested by this Act in the board, shall thereupon vest in Government.

IX.—MISCELLANEOUS.

81. All acts done and proceedings taken by the Political Resident on behalf of the Aden port fund before this Act comes into force, and all orders, rules, and regulations relating to the port, and to wharves, quays, stages, jetties, piers, and landing places within the port, made and issued before this Act comes into force, shall, whenever such acts, proceedings, orders, rules, or regulations would have been lawful if this Act had been in force, be deemed to have been respectively done, taken, made, and issued under the provisions of this Act.

82. All fees and sums due on account of property for the time being vested in the board, and all arrears of tolls, charges, and rates imposed under this Act, may be recovered, in addition to the other modes hereinbefore provided, upon a summary proceeding before a Magistrate in the manner provided in the Code of Criminal Procedure, 1882, for the recovery of fines.

83. No trustee shall be personally liable for any contract made or expense incurred by or on behalf of the board; but the funds from time to time in the hands of the board shall be liable for, and chargeable with, all contracts made in manner provided in this Act.

84. Every trustee shall be liable for any misapplication of money entrusted to the board to which he has been a party, or which happens through, or is facilitated by, the neglect of his duty.

85. (1) No suit shall be commenced against any person for anything done, or purporting to have been done, in pursuance of this Act without giving to such person one month's previous notice in writing of the intended suit and of the cause thereof, nor after six months from the accrual of the cause of such suit.

(2) And in the case of a suit for damages, if tender of sufficient amends shall have been made before the suit was brought, the plaintiff shall not recover more than the amount so tendered, and shall pay all costs incurred by the defendant after such tender.

Board not responsible for certain acts of their officers and servants.

86. (1) The board shall not be responsible for any mis-feasance, mal-feasance or non-feasance of any officer or servant appointed under this Act;

nor, if they should be appointed by Government under the Indian Ports Act, 1875 (a), Conservators of the Port, for any mis-feasance, mal-feasance, or non-feasance of any Deputy Conservator, Port Officer or Harbour Master, or of any assistant or deputy of any such officer or of any person acting under the authority or direction of or in subordination to any such officer, assistant or deputy;

nor for any damage sustained by any vessel in consequence of any defect in any of the moorings, hawseers, or other things belonging to the board, which may be used by such vessel.

(2) Provided that nothing in this section shall protect the board from a suit in respect of damage to, or loss of, goods landed or shipped by them or retained in their custody.

Proviso.

SCHEDULE A.

(See Section 25.)

PROPERTY VESTED IN THE BOARD.

I.—All the right, title and interest of the Secretary of State for India in Council in the following lands, buildings, piers, embankment, light-house, signal stations, jetty and quay (namely):—

Consecutive Number.	Name of Property.	Heretofore in charge of:	Boundaries and general description.
1	Pilot bandar	The Political Resident at Aden.	Below Ras Morbut Fort at Steamer Point; a stone pier.
2	Port fund boat-slips	Do. ...	Adjoining the Peninsular and Oriental Company's slip at Steamer Point, consisting of stone-sheds, slips and rails.
3	Post Office pier	Do. ...	Opposite Post Office at Steamer Point; partly constructed of stone and partly of screw iron piles.

S. 86 (a).—The reference is now to the Ports Act, X. of 1889. See S. 2 of that Act.

Consecutive Number.	Name of Property.	Heretofore in charge of :	Boundaries and general description.
4	Port fund store-rooms ...	The Political Resident at Aden.	On Government ground near the Post Office at Steamer Point; stone building.
5	Ditto ...	Do. ...	Ditto.
6	Port magazine ...	Do. ...	A magazine in the solid rock near the saluting battery near Ras Morbut.
7	Lascars' lines (Khalási lines).	Do. ...	In Post Office Bay.
8	Port Surgeon's jetty ...	Do. ...	Opposite Government tanks at Steamer Point; stone pier.
9	Government landing pier (Prince of Wales' pier).	Do. ...	Reclamation and iron shed west of Government buildings at Steamer Point.
10	Boat Inspector's office and quarters.	Do. ...	Under the hill opposite Prince of Wales' Pier at Steamer Point; stone house.
11	Abkari pier and adjoining reclamation.	Do. ...	Reclamation east of Government buildings at Steamer Point.
12	Government jetty ...	Do. ...	Near Hotel de l' Universe at Steamer Point; a small rubble stone jetty.
13	Maala pier ...	Do. ...	At Maala village; stone pier.
14	Office and godowns attached to the Maala pier.	Do. ...	Adjoining Maala pier; stone buildings.
15	Marshag signal station ...	Do. ...	On Ras Marshag.
16	Marshag light-house, lascars' quarters and store rooms.	Do. ...	On Ras Marshag. First order dioptric light on a stone light-house, with stone buildings attached.
17	Shum Shum signal station.	Do. ...	On Jebel Shum Shum; a flagstaff and sheds.
18	The station signal staff ...	Do. ...	On hillock above the Protestant church at Steamer Point; a flag-staff.
19	Port Officer's quarters and out-houses.	Do. ...	Adjoining the property of the Messageries Maritimes and the Peninsular and Oriental Company, near Steamer Point barracks; a partly stone building.
20	Pilot's quarters and out-houses.	Do. ...	On Ras Morbut; kutchas.

Consecutive Number.	Name of Property.	Heretofore in charge of:	Boundaries and general description.
21	Pier of Obstruction with a 15-ton iron crane.	Military Department.	A stone pier adjoining the Tower or Western Gate.
22	The right, title and interest of the Secretary of State for India in Council in the following properties on the foreshore of the inner harbour of Aden :— 1. In the occupation of the Peninsular and Oriental Steam Navigation Company— (a) Ground near Ras Morbut used as work-yards, boat-shed, &c.	The Political Resident at Aden.	At Steamer Point, bounded on the north and west by the sea ; on the east by the Port Department Workshop ; and on the south by the public road.
	(b) Coal ground adjoining what was formerly the Government Coal ground.	Do. ...	(1) Bounded on the north and east by the sea ; on the west partly by the sea and partly by Government ground ; and on the south by the public road. (2) On the north by the public road, and on the east, south, and west by Government ground.
	(c) Coal ground formerly in the occupation of the European and Australian Mail Company.	Do. ...	(1) Bounded on the north, west, and south by the sea ; and on the east by the public road. (2) On the west by the public road ; on the south and east by Government ground ; and on the north by the British India Steam Navigation Company's coal dépôt.
	2. In the occupation of the British India Steam Navigation Company— (a) Coal dépôt opposite Flint Island.	Do. ...	(1) Bounded on the north, west and south by the sea ; and on the east by the public road. (2) Bounded on the west by the public road ; and on the south, east, and north by Government ground.
	3. In the occupation of the Messageries Maritimes Company— (a) Coal ground	Do. ...	(1) Bounded on the south by the public road ; and on the west, north, and east by the sea. (2) On the north by the public road ; and on the west, south, and east by Government ground.

Consecutive Number.	Name of Property.	Heretofore in charge of:	Boundaries and general description.
	(b) Boat-slip	The Political Resident at Aden.	Bounded on the east by Government ground; on the west by the sea; on the south by Cowasji Dinshaw and Brothers' boat-slip, and on the north by the premises of Messrs. Luke Thomas and Company's Mechanic's house.
<i>New entries No. 22-26 added. listed in line of this Subj. No. 22 reflects by Brou 1/15. 8. 7 (1), and Sch. I.</i>	4. In the occupation of Luke Thomas and Company, Limited— (a) Coal ground, formerly in the occupation of Mr. Edulji Maneckji.	Do. ...	(1) Bounded on the north, east, and west by the sea; and on the south by Government ground. (2) On all sides by Government ground.
	(b) Ground used for buildings for mechanics.	Do. ...	Bounded on the east and south by Government ground; on the west by the Messageries Maritimes Company's boat-slip and on the north by Mr. Cowasji Dinshaw's landing place.
	(c) Coal depôt, condensers and Ice Factory.	Do. ...	Bounded on the north and west by the sea; on the south by Mr. Cowasji Dinshaw's landing place, and on the east by Government ground.
	5. In the occupation of Messrs. Hajibhoy Lalji—Coal ground.	Do. ...	(1) Bounded on the north and east and west by the sea; and on the south by Government ground. (2) On all sides by Government ground.
	6. In the occupation of Messrs. Cowasji Dinshaw and Brothers—Boat-slip at Hedjuff.	Do. ...	Bounded on the east by the Messageries Company's boat-slip; on the south by Government ground; and on the west and north by the sea.
	7. In the occupation of Mr. Cowasji Dinshaw—Ground used for the landing and shipping of goods.	Do. ...	Bounded on the south by Messrs. Luke Thomas and Company's Mechanic's house; on the west by the sea; on the north by Messrs. Luke Thomas and Company's coal depôt and on the east by Government ground.
	8. In the occupation of the Aden Coal Company, Limited—Coal ground.	Do.	Bounded on the south by Government ground; on the west by Messrs. Luke Thomas and Company's coal depôt; on the north by the sea; and on the east by the premises of the Aden Water Company.
	9. In the occupation of the Aden Water Company, Limited—Grounds used for condensers.	Do. ...	Bounded on the west by the premises of the Aden Coal Company; on the south and east by Government ground; and on the north by the sea.

II.—The following vessels and boats (namely):—

Consecutive Number.	Names, descriptions and numbers.	Heretofore in charge of:
1	Light ship... ..1	The Political Resident, Aden.
2	Steam-launch "Rose" ... ..1	Ditto.
3	No. O lighter ... ..1	Ditto.
4	Hopper barge ... ..1	Ditto.
5	Mud punt ... ..1	Ditto.
6	Diver's boat ... ..1	Ditto.
7	Cutters ... ..2	Ditto.
8	Whale-boats of sizes ... ..4	Ditto.
9	Jollies ... ..5	Ditto.
10	Punts ... ..5	Ditto.
11	Canoes ... ..2	Ditto.
12	Launch whale, 40 feet ... ..1	Ditto.

III.—All other lands, buildings, machinery, plant, tools and other property whatsoever, not hereinbefore particularly described, heretofore in the charge of the Port Engineer of Aden, the Master Attendant of Aden, or the Political Resident on behalf of the Aden Port Fund.

SCHEDULE B.

(See Section 34.)

Receipt for Goods by the Port Trust, Aden.

Landed, during the day of from the , by the Port Trust, Aden, the noted in the margin; contents and state of the contents unknown.

NOTE.—(If there be any apparent injury, this is to be stated.)

For the Board,

(Signed) A. B.

The ADEN, day of

} Schedule C' (in sec. 25(4))

Admitted by Com. 7/1897(12)

Bombay Act No. VI. of 1888.

PUBLISHED BY THE GOVERNOR OF BOMBAY ON THE 25TH MARCH, 1889.

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An Act to provide for the Revenue Administration of Estates held by certain superior landholders in the districts of Ahmedabad, Kaira, Broach and the Panch Maháls, and to limit the further operation of Bombay Act VI. of 1862.

WHEREAS it is expedient to remove doubts as to the applicability of certain portions of the Bombay Land Revenue Code, 1879, to estates held by certain superior landholders in the districts of Ahmedabad, Kaira, Broach and the Panch Maháls, and to make special provision for the revenue administration of the said estates and for the partition thereof; It is enacted as follows :—

PART I.—PRELIMINARY.

Short title. 1. (1) This Act may be cited as “The Gujarát Tálukdárs’ Act, 1888.”

(2) It extends only to the districts of Ahmedabad, Kaira, Broach and the Panch Maháls.

Definitions. 2. (1) In this Act, unless there be something repugnant in the subject or context :

(a) “tálukdár” includes a thákur,
“tálukdár ;” mevási, kesbáti and náik ;

(b) “registered tálukdár” means a sole tálukdár, or the eldest or principal of several co-sharers
“registered tálukdár ;” of a tálukdári estate, whose name is authorizedly entered in the Government records as holding such estate, or as the representative of the several co-sharers holding the same ;

(c) “jama” means land-revenue payable
“jama ;” by a tálukdár to Government ;

(d) “alienation” means a transfer of ownership and “alienee”
“alienation ;” means a person to whom
“alienee ;” ownership is transferred ;

(e) “incumbrance” includes a mortgage, charge, usufructuary grant and any interest other than that of an ordinary tenant or of an alienee or tálukdár ;
“incumbrance ;”
“incumbrancer ;” and “incumbrancer” means a person in whom an incumbrance vests ;

(f) any word or expression which is defined in the Bombay Land Revenue Code, 1879, and is not hereinbefore defined, shall be deemed to have the meaning given to it by that Code.

(2) In Part II., unless there be something repugnant in the subject or context, “*tálukdár*” includes any class of holders of unalienated estates, upon which the land-revenue is fixed by a lump assessment, to whom the Governor in Council deems fit from time to time, by notification in the *Bombay Government Gazette*, to extend the provisions of the said Part.

Meaning of “*tálukdár*” in Part II.
 Repeal of part of S. 114, Bombay Act V. of 1879.

1 xvi/95 q. 2 (1) r s d f p t n

3. In section 114 of the Bombay Land Revenue Code, 1879, the words “or in a *tálukdári* estate” are repealed.

PART II.—SURVEY AND SETTLEMENT.

Revenue Survey.

4. It shall be lawful for the Governor in Council, whenever it may seem expedient, to direct a revenue survey or a revised revenue survey of any *tálukdári* estate, under the provisions of the Bombay Land Revenue Code, 1879, applicable to such surveys.

Settlement Register.

5. The Settlement Register prepared by the survey officer under section 108 of the said Code on the occasion of making any such survey shall, unless Government otherwise direct, contain, in lieu of the particulars specified in the said section, the following particulars (namely):

- (a) the area and assessment of each survey number;
- (b) the name of the registered *tálukdár*, and if there are co-sharers, the name of each co-sharer and the extent of each one's interest in the estate;
- (c) if the estate is undivided:

- (i) the manner in which the profits derived from sources common to the co-sharers are to be distributed amongst them;

- (ii) the share to be contributed by each co-sharer, of the jama, of police charges, of the cost of erecting and

maintaining boundary-marks, and of any other charge to which under any law for the time being in force the co-sharers are liable in common ;

(iii) the manner in which the co-sharers are to collect from the tenants ;

(d) if a partition of the estate has been effected and the co-sharers hold their respective shares in severalty :

(i) the extent and limits of each separate share ;

(ii) the same particulars in respect of the several sub-sharers, if any, of each such share, as are required to be given concerning all the co-sharers when an estate is undivided ;

(e) the name and description and the nature and extent of the interest of every alienee and of every incumbrancer of the estate or any portion thereof, together with a specification of :

(i) the aggregate area over which such interest extends ;

(ii) the amount and nature of rent, or land-revenue, if any, payable or receivable by each alienee and incumbrancer ;

(iii) the basis of such interest, whether grant, contract, custom or other ;

(iv) the conditions of service or other conditions on which such interest depends ;

(v) any other particulars which Government shall from time to time direct.

Determination of Disputes.

6. (1) If it appears to the survey officer who frames the said register

Disputes concerning matters which have to be recorded under section 5 to be determined by survey officer.

that there exists any dispute as to any matter which he is bound under this Act to record therein, he may, either on the application of any of the disputant parties, or of his own motion, investigate and determine such dispute and frame the register accordingly :

(2) Provided that when any such dispute shall appear to the survey officer to have been already finally decided by a court of competent jurisdiction, the entry in the said register shall be made in conformity with such decision.

Custody and Amendment of Records.

7. (1) When the survey settlement of a tálukdári estate is completed, the said register and the other records thereof shall be kept by the Collector, and every Registered Tálukdár shall be entitled to receive one copy of the register free of any charge except the cost of copying.

(2) So long as the said register and other records are in the charge of the survey officer, the said officer, and afterwards the Collector, shall cause to be entered therein all changes that occur, and every thing that affects any of the rights or interests therein recorded; and shall at any time correct or cause to be corrected any clerical error therein and also any other error which all the parties interested admit to have been made in the same.

8. (1) No suit shall lie against Government or against any officer of Government to set aside any decision or order of a survey officer or of a Collector under section 6 or 7.

Bar of suits against Government, &c., to set aside decisions under section 6 or 7;

(2) But the said register and other records shall from time to time be amended by the survey officer, or, when the survey settlement is completed, by the Collector, in accordance with any final decree of a court of competent jurisdiction which the parties may obtain *inter se*, on an application, accompanied by a certified copy of such decree, being duly made to the survey officer or Collector for that purpose.

but effect to be given to decrees obtained by parties *inter se*.

(3) In any suit in a civil court between the parties or persons claiming under them, a decision or order of a survey officer or Collector under section 6 or 7 shall not be held to be conclusive as to any matter therein decided.

9. Every change in the said register and other records shall be communicated without delay by the officer making it to each of the parties affected thereby.

Changes in records to be communicated to parties affected thereby.

PART III.—PARTITION.

10. (1) Every person who has obtained a final decree of a court of competent jurisdiction declaring him to be entitled to a share of a tálukdári estate and every co-sharer whose name is recorded, as such, in the settlement register prepared in accordance with section 5 and, pending the preparation of the said register, every person whose title to any such share as aforesaid is not

Persons entitled to partition.

disputed by any other person claiming a share in the same estate, shall be entitled to have his share divided from the rest of the estate and to hold the same as a separate estate.

(2) Any two or more such co-sharers or persons shall be entitled to have their shares divided from the rest of the estate and to hold the same jointly as a separate estate.

Applications for partition to whom to be made.

11. Applications for partition shall be made to the Tálukdári Settlement Officer or to such other officer as the Governor in Council appoints in this behalf.

12. (1) The Tálukdári Settlement Officer, or other officer aforesaid, on receiving an application for partition, shall, if the application be not open to objection on the face of it, publish a notification of the same in the office of the Mámlatdár of the táluka and at some conspicuous place in the village in which the estate to which the application relates is situate or in each of the villages comprised in the said estate, as the case may be.

(2) He shall also serve a notice on each of the known co-sharers who has not joined in the application, requiring any of them who objects to the partition to appear before him to state his objection either in person or by a duly authorized agent, on a day to be specified in the notice not less than thirty or more than sixty days from the date on which such notice is issued.

13. Where, from any cause, notice cannot be personally served on any co-sharer, the Tálukdári Settlement Officer or other officer aforesaid shall order the same to be served by affixing a copy thereof upon some conspicuous part of the house, if any, in which such co-sharer is known to have last resided, or in such other manner as the Tálukdári Settlement Officer or other officer aforesaid thinks fit.

14. If, on or before the day specified, any objection is made to the partition by any sharer and the Tálukdári Settlement Officer or other officer aforesaid, on a consideration of such objection, is of opinion that there is any good and sufficient reason why the partition should be disallowed, he may refuse the application, recording the grounds of his refusal.

15. (1) If the objection raises any question as to the right of the applicant to partition or any other question of title which has not been already determined by a court of competent jurisdiction, the Tálukdári

Settlement Officer or other officer aforesaid may either decline to grant the application until the question in dispute has been determined by a competent court, or, if no suit is at the time pending in any such court in which the question is likely to be determined, may proceed to inquire into the merits of the objection.

(2) In the latter case, the Tálukdári Settlement Officer or other officer aforesaid, after making the necessary inquiry and taking such evidence as may be adduced, shall pass a decision declaring the nature and extent of the interests of the party or parties applying for the partition and of the other co-sharers of the estate, if any, and directing by whom, and in what proportion, the costs of the inquiry and of the partition (which shall be recoverable as an arrear of land-revenue) are to be paid.

(3) The procedure to be observed by the Tálukdári Settlement Officer or other officer aforesaid in any such inquiry shall be that laid down by the Code of Civil Procedure, 1882, for the trial of original suits, and the provisions of Chapter XLVII. of that Code, in so far as they apply to a review of judgment in an original suit, shall be applicable to the decision of the Tálukdári Settlement Officer or other officer aforesaid. The Tálukdári Settlement Officer or other officer aforesaid may, with the consent of the parties, refer any question arising in such inquiry to arbitration, and the provisions of the same code relative to arbitrators shall apply to such references.

16. (1) An appeal shall lie from any decision, or from any part of a decision, passed under the last preceding section by the Tálukdári Settlement Officer or other officer aforesaid, to the District Court, as if such decision were a decree of a Court from whose decisions the District Court is authorized to hear appeals.

(2) Upon such appeal being made, the District Court may issue a precept to the Tálukdári Settlement Officer or other officer aforesaid, requiring him to stay the partition pending the decision of the appeal.

17. (1) When it has been decided to make a partition, the Tálukdári Settlement Officer or other officer aforesaid shall give the parties the option of making the partition themselves; in the event of their not agreeing or of their failing to make the partition, within a period prescribed by the Tálukdári Settlement Officer or the officer aforesaid in this behalf, the Tálukdári Settlement Officer or other officer aforesaid shall either make it himself or, if he thinks fit, shall entrust it to arbitrators appointed for this purpose by the parties.

(2) In making the partition, the Tálukdári Settlement Officer or other officer aforesaid and any person acting under his orders shall have the same powers to enter on the estate under partition, for marking out the boundaries, surveying the land and other purposes as are conferred on survey officers by the Bombay Land Revenue Code, 1879.

When partition is complete,
order to be made confirming it.

18. (1) When a partition is completed the Tálukdári Settlement Officer or other officer aforesaid shall make an order confirming it.

(2) On making such order the Tálukdári Settlement Officer or other officer aforesaid shall publish a notification of the fact in the office of the Mámlatdár of the táluka and at some conspicuous place in the village in which the estate which has been divided is situate, or in each of the villages comprised in the said

estate, as the case may be ; and the partition shall take effect on and from the first day of June next after the date of such notification, or such other date next after the date of such notification between the first day of June and the first day of October as the Tálukdári Settlement Officer or other officer aforesaid, having regard to the usual season of cultivation in the said estate, shall fix in this behalf.

19. (1) If necessary, the Tálukdári Settlement Officer or other officer aforesaid may, at any time after the date aforesaid, order delivery of the share, or any portion of the share, allotted to any co-sharer to be made to him in the manner in which delivery of the same might be ordered by a civil court, under the Code of Civil Procedure, 1882, in execution of a decree.

(2) If, in executing the order of the Tálukdári Settlement Officer, or other officer aforesaid, the officer charged with the execution thereof is resisted or obstructed by any person, or if a co-sharer is resisted or obstructed in obtaining possession of the share or of any portion of the share allotted to him, the Tálukdári Settlement Officer or other officer aforesaid shall proceed in the manner in which, by section 202 of the Bombay Land Revenue Code, 1879, a Collector is authorized to proceed for the purpose of inquiring into the reasonableness of any resistance or obstruction to the execution of an order made under that section and of preventing the continuance thereof.

20. An appeal against the decision of the Tálukdári Settlement Officer or other officer aforesaid confirming a partition shall lie to the Commissioner within one year from the date of the order confirming such partition.

Appeals against order confirming partition to the Commissioner.

21. No civil court shall entertain any suit or application for partition of a *tálukdár* estate: Provided that nothing in this section shall be deemed to affect the jurisdiction of Her Majesty's High Court of Judicature at Bombay.
- Civil courts barred from entertaining suits or applications for partition.

PART IV.—REVENUE ADMINISTRATION.

The Tálukdár's Jama.

22. (1) If a *tálukdár's* estate, or any portion thereof, is not wholly or partially exempt from land-revenue and its liability to payment of land-revenue is not subject to special conditions or restrictions, the *jama* payable to Government in respect of such estate or portion thereof shall, if a survey settlement has been extended thereto, be the aggregate of the survey assessments of the lands composing such estate or such portion thereof, minus such deduction, if any, as Government shall in each case direct.
- Tálukdár's jama how to be calculated.*

- (2) The Governor in Council may declare the amount of *jama* so ascertained fixed for any term not exceeding thirty years.

23. (1) Nothing in this Act shall be deemed to affect the validity of any agreement heretofore entered into by or with a *tálukdár* and still in force as to the amount of his *jama*, nor of any settlement of the amount of *jama* made by or under the orders of Government for a term of years and still in force.
- Saving of existing agreements and settlements as to amount of *jama*.

- (2) Every such agreement and settlement shall have effect as if this Act had not been passed.

24. (1) The registered *tálukdár* shall be primarily responsible to Government for the *jama* of his village, and if there are sharers, all the co-sharers shall be jointly and severally responsible therefor.
- Responsibility for *jama*.

- (2) If the registered *tálukdár* fails to pay the *jama* according to the rules legally prescribed in that behalf it may be recovered from his co-sharers, if any, or, to the extent to which it is due in respect of the holding of any mortgagee in possession, inferior holder or person in actual occupation of the estate or of any portion thereof, from such mortgagee in possession, inferior holder or person.
- Liability of other persons if *tálukdár* makes default.

(3) When jama is recovered from any such co-sharer, mortgagee in possession, inferior holder, or other person, he shall be allowed credit for all payments which he may have made to the *tálukdár* at or after the prescribed or usual times of such payments and he shall be entitled to credit in account with the *tálukdár* for the amount recovered from him.

25. (1) When a partition has taken place and a *tálukdári* estate is held in severalty, the jama payable in respect of each separate portion into which the same has been divided shall be determined by the Collector, and thereupon each such portion shall for the purposes of the last preceding section be deemed to be a distinct estate :

(2) Provided that the aggregate jama payable in respect of the several portions into which the estate has been divided shall not exceed the jama which would be leviable from the entire estate if still undivided.

Management of Tálukdárs' Estates by Government Officers.

26. (1) If owing to disputes among the sharers in any *tálukdári* estate, or for other cause, the Governor in Council shall deem that there is reason to apprehend danger to the peace of the country or injury to the well-being of the inferior holders, he may direct the Collector to cause such estate to be attached and taken under the management of himself or any agent whom he appoints for this purpose ; and on the application of any registered *tálukdár* or co-sharer, the Collector shall furnish him with a copy of the reasons on which the orders of Government were passed.

(2) When any estate is so attached and taken under management, the sharers or any one or more of the sharers therein, may at any time apply to the District Magistrate to restore the management thereof ; and if the applicants shall prove to the satisfaction of the District Magistrate, that no reason for any such apprehension as aforesaid any longer exists, the District Magistrate may order restoration of the management to be made to the *tálukdár*.

27. (1) With the sanction of the Commissioner, the *Tálukdári* Settlement Officer or other officer appointed by Government may hold the estate in which partition is being effected, under his own management, pending the completion of the partition.

(2) Provided that, before applying to the Commissioner for sanction under this section, the *Tálukdári* Settlement Officer or other officer aforesaid shall give to the parties reasonable notice of his intention so to do, and shall

forward, with his application, for the Commissioner's consideration, any written statement of objection thereto which any of the parties shall present to him for this purpose.

28. With the sanction of Government, the Tálukdári Settlement Officer or any other officer appointed by Government for this purpose may, upon the written application of a tálukdár in this behalf, take charge of such tálukdár's estate and keep the same under his management for such period as may be agreed upon between the tálukdár and the Tálukdári Settlement Officer or other officer aforesaid: Provided that no such application shall be entertained in respect of an undivided share of a tálukdári estate nor, except with the consent of all the co-sharers, in respect of an estate which is held by co-sharers.

Power to take up management of estate at tálukdár's request.

Applicability of section 160 of Bombay Act V. of 1879 when an estate is taken under management by a Government officer.

29. (1) When any tálukdári estate is taken under management by Government officers under any of the three last preceding sections, the provisions of section 160 of the Bombay Land Revenue Code, 1879, shall be applicable thereto.

(2) Provided that no sale of occupancy rights or agreement entered into by a Government officer managing an estate under section 26, in respect of any land in such estate, shall be for a period exceeding five years from the date thereof and that no such sale of occupancy rights or agreement by a Government officer managing an estate under section 27 shall have effect beyond the end of the revenue year in which such officer's management determines, unless the same is ratified by the co-sharer to whose share the said land is finally allotted when the partition of the estate is completed.

(3) All surplus receipts, if any, which accrue during such management, after defraying the costs of the management, including the payment of the current land-revenue and of all arrears thereof, and the cost of the extension to the estate of a revenue survey, if the Governor in Council directs, or has before directed, the extension of a revenue survey thereto under section 4, shall be divided amongst the co-sharers in proportion to their respective shares, at such periods as the Tálukdári Settlement Officer or other officer aforesaid shall see fit.

Disposal of surplus receipts.

Police Officers and Establishment.

Government to fix the number and remuneration of police.

30. (1) The Governor in Council may from time to time determine :

(a) what police officers and establishment are requisite in each village in a tálukdári estate ;

(b) by whom and under what conditions the police officers and establishment shall be appointed, punished and dismissed ;

(c) what remuneration shall be paid to each police officer and member of the police establishment.

(2) Charges on account of police shall be defrayed by the *tálukdár* at such times as shall from time to time be determined by Government, and in the event of failure by the *tálukdár* to pay, at the time when the same becomes due, any sum so payable, the said sum shall be recoverable from him, in addition to the *jama*, as if the same were a part of the *jama*.

Police charges how recoverable.

(3) If a partition has taken place and the estate is held in severalty, the said charges shall be payable by and recoverable from the holders of the various portions into which the estate has been divided in proportion to their respective shares in the estate.

PART V.—MISCELLANEOUS.

31. (1) No incumbrance on a *tálukdár's* estate, or on any portion thereof, made by the *tálukdár* after this Act comes into force, shall be valid as to any time beyond such *tálukdár's* natural life, unless such incumbrance is made with the previous written consent of the *Tálukdári Settlement Officer*, or of some other officer appointed by the Governor in Council in this behalf.

Bar of incumbrances on a *tálukdár's* estate beyond *tálukdár's* own life, except with consent of the *Tálukdári Settlement Officer* ;

(2) No alienation of a *tálukdár's* estate or of any portion thereof, or of any share or interest therein, made after this Act comes into force, shall be valid, unless such alienation is made with the previous sanction of the Governor in Council, which sanction shall not be given except upon the condition that the entire responsibility for the portion of the *jama* and of the village expenses and police charges due in respect of the alienated area, shall thenceforward vest in the alienee and not in the *tálukdár*.

and of all alienations, except with consent of Governor in Council.

32. (1) No consent or sanction given under the last preceding section shall be deemed to affect any right of Government under section 3 of Bombay Act VII. of 1863 (*an Act for the Summary Settlement of claims to exemption from the payment of Government land-revenue, and for regulating the terms upon which such exemption shall be recognized in future, in those parts of the Bombay Presidency which are not subject to the operation of Act XI. of 1852 of the Council of India*).

Saving of rights of Government under section 3, Bombay Act VII. of 1863.

(2) And nothing in the last preceding section shall apply to the property of any thákur to which section 28 of the Broach and Kaira Encumbered Estates Act, 1881, is applicable, or be deemed to affect the power of the manager of any thákur's immoveable property under section 24 of the said Act.

33. (1) Nothing in sections 38 to 40, both inclusive, 44, 60 to 67, both inclusive, 76, 82, 85, 109, 110, 116, 127 to 136, both inclusive, 163, 216 and 217 of the Bombay Land Revenue Code, 1879, shall be deemed to apply to any estate to which this Act extends.

Applicability of the Land Revenue Code to talukdars' estates.

(2) The provisions of the said Code when applied to any such estate shall be subject to the following modifications (namely) :—

(a) in section 3, clause (1), the words “the Tálukdári Settlement Officer and every officer appointed by the Governor in Council to exercise any power or perform any duty under the Gujarát Tálukdárs' Act, 1888, and” shall be inserted after the word “means” ;

(b) in section 54, the words “or under the Gujarát Tálukdárs' Act, 1888,” shall be inserted after the figures “136” ;

(c) in sections 46, 88, 89 and 94, the word “tálukdár” shall be substituted for the words “holder of alienated lands” and the word “holder” wherever they occur ;

(d) in section 88, the clauses (c) to (f) and the proviso shall be omitted ;

(e) for section 111, the following section shall be deemed to be substituted, viz. :

“111. In the event of any tálukdár's estate coming under the temporary management of Government officers, it shall be lawful for the Collector, Tálukdári Settlement Officer, or other officer appointed by Government in this behalf, subject, in any case to which it applies, to the proviso to section 29 of the Gujarát Tálukdárs' Act, 1888, to let out the lands thereof at rates determined by means of a survey settlement or at such other fixed rates as he may deem to be reasonable, and to sell the occupancy of unoccupied lands by auction, and

Revenue management of tálukdári estates which may be temporarily under Government management.

otherwise to conduct the revenue management thereof under the rules for the management of unalienated lands not comprised within a *tálukdár's* estate, so far as such rules may be applicable and for so long as the said estate shall be under the management of Government officers : Provided, however, that any written agreements relating to the land made by the *tálukdár* of such estate shall not be affected by any proceedings under this section in so far as they shall not operate to the detriment of the lawful claims of Government on the land ; and provided also that when the estate ceases to be under the management of Government officers, the possession and enjoyment thereof shall, except as is otherwise provided in section 29 of the *Gujarát Tálukdárs' Act, 1888*, revert to the *tálukdár*, subject to the leases and occupancy rights, if any, granted under this section."

- (f) in section 113, clause (3) shall be omitted ;
- (g) in section 147, the words "or under the *Gujarát Tálukdárs' Act, 1888*," shall be inserted after the word "section" ;
- (h) In section 150, clause (f), the word "alienated" shall be omitted ;
- (j) in section 160, the word "be" shall be substituted for the words "revert to Government" ;
- (k) in section 162, the words "at any time within twelve years from the first day of August next after the attachment" shall be omitted ;
- (l) in section 214, clause (f) shall be omitted ;
- (m) generally, the word "*tálukdár*" shall be substituted for the word "occupant;" the words "registered *tálukdár*" for the words "registered occupant;" and the words "*tálukdár's* holding," or such words to that effect as may be required by the context, for the word "occupancy."

And whereas it is also expedient to limit the period within which fresh estates may be subjected to the operation of *Bombay Act VI. of 1862 (an Act for the amelioration of the condition of Tálukdárs in the Ahmedabad Collectorate and for their relief from debt)*; It is further enacted as follows :

34. No new declaration shall be made under section 1 of the said *Bombay Act VI. of 1862* at any time after six months from the date on which this Act comes into force.

Limitation of operation of
Bombay Act VI. of 1862.

Act No. I. of 1889.

RECEIVED THE ASSENT OF THE GOVERNOR GENERAL ON THE
1ST FEBRUARY, 1889.

An Act for the Protection of Coinage and other Purposes.

WHEREAS it is expedient to prohibit the making, or the possession for issue, or the issue, by private persons of pieces of metal for use as money ;

And whereas it is also expedient to amend section 28 of the Indian Penal Code ;

It is hereby enacted as follows :—

Title, extent and commencement. 1. (1) This Act may be called the Metal Tokens Act, 1889.

(2) It extends to the whole of British India ; and

(3) It shall come into force at once.

2. In this Act “ issue ” means to put a piece of metal into circulation for the first time for use as money in British India, such piece having been made in contravention of this Act or brought into British India by sea or by land in contravention of any notification for the time being in force under section 19 of the Sea Customs Act, 1878.

3. No piece of copper or bronze or of any other metal or mixed metal, which, whether stamped or unstamped, is intended to be used as money, shall be made except by the authority of the Governor General in Council.

Prohibition of making by private persons of pieces of metal to be used as money.

Penalty for unlawful making, issue or possession of such pieces. 4. (1) In either of the following cases namely :—

(a) if any person makes in contravention of the last foregoing section, or issues or attempts to issue, any such piece as is mentioned in that section,

(b) if, after the expiration of three months from the commencement of this Act, any person has in his possession, custody or control any such piece as is mentioned in the last foregoing section, with intent to issue the piece,

the person shall be punished,—

(i) if he has not been previously convicted under this section, with imprisonment which may extend to one year, or with fine, or with both ; or,

(ii) if he has been previously convicted under this section, with imprisonment which may extend to three years, or with fine, or with both.

(2) If any person is convicted of an offence under sub-section (1), he shall, in addition to any other punishment to which he may be sentenced, forfeit all such pieces as aforesaid, and all instruments and materials for the making of such pieces, which may have been found in his possession, custody or control.

(3) If in the trial of any such offence the question arises whether any piece of metal or mixed metal was intended to be used or to be issued for use as money, the burden of proving that the piece was not intended to be so used or issued shall lie on the accused person.

5. (1) The offence of making, in contravention of section 3, any such piece as is mentioned in that section shall be a cognizable offence.

Cognizance of offences under the last foregoing section.

(2) Notwithstanding anything in the Code of Criminal Procedure, 1882, no other offence punishable under section 4 shall be a cognizable offence, or beyond the limits of a presidency-town be taken cognizance of by any Magistrate, except a District Magistrate or Sub-divisional Magistrate, without the previous sanction of the District Magistrate or Sub-divisional Magistrate.

6. If at any time the Governor General in Council sees fit, by notification under section 19 of the Sea Customs Act, 1878, to prohibit or restrict the bringing by sea or by land into British India of any such pieces of metal as are mentioned in section 3,

Application of certain of the foregoing provisions of this Act to importation of pieces of metal for use as money.

S. 6.—The following notification is published at G. G. 1889, p. 101 :—“In exercise of the power conferred by section 19 of the Sea Customs Act, VIII. of 1878, the Governor General in Council is pleased to prohibit the bringing into British India by sea or by land of pieces of copper or mixed metal, which, not being coin as defined in the Indian Penal Code, are intended to be used as money: Provided that the bringing of such pieces into British India by a traveller in quantity not exceeding one hundred pieces and in good faith for his own use, shall not be deemed to be prohibited by this notification.

2. In exercise of the power conferred by section 6 of the Metal Tokens Act, I. of 1889, the Governor General in Council is further pleased to direct—

- (a) That any person bringing pieces of copper into British India in contravention of the foregoing prohibition under S. 19 of the Sea Customs Act, 1878, shall be liable to the punishment to which he would be liable if he were convicted under Act I. of 1889, of making in British India, in contravention of S. 3 of that Act, any such piece as is mentioned in that section; and
- (b) That the provisions of sub-section (3) of S. 4 and sub-section (1) of S. 5 of Act I. of 1889 in relation to the offence of making in British India, in contravention of S. 3 of that Act, any such piece as is mentioned in that section, shall apply, as far as they can be made applicable, to the offence of contravening the foregoing prohibition under S. 19 of the Sea Customs Act, 1878.”

1889. A 1 § 7—9

he may by the notification direct that any person contravening the prohibition or restriction shall be liable to the punishment to which he would be liable if he were convicted under this Act of making such pieces in British India, instead of to the penalty mentioned in section 167 of the Sea Customs Act, 1878, and that the provisions of sub-section (3) of section 4 and sub-section (1) of section 5, or of either sub-section, in relation to the offence of making such pieces shall, notwithstanding anything in the Sea Customs Act, 1878, apply, so far as they can be made applicable, to the offence of contravening the prohibition or restriction notified under section 19 of that Act.

2 V/98. 52 (1)

Addition to section 98, Act X., 1882.

27. To section 98 of the Code of Criminal Procedure, 1882, the following shall be added, namely :—

“ The provisions of this section with respect to—

- (a) counterfeit coin,
- (b) coin suspected to be counterfeit, and
- (c) instruments or materials for counterfeiting coin,

shall, so far as they can be made applicable, apply, respectively, to—

- (a) pieces of metal made in contravention of the Metal Tokens Act, 1889, or brought into British India in contravention of any notification for the time being in force under section 19 of the Sea Customs Act, 1878,
- (b) pieces of metal suspected to have been so made or to have been so brought into British India or to be intended to be issued in contravention of the former of those Acts, and
- (c) instruments or materials for making pieces of metal in contravention of that Act.”

Prohibition of receipt by local authorities and railways as money of metal which is not coin.

8. (1) No piece of metal which is not coin as defined in the Indian Penal Code shall be received as money by or on behalf of any railway-administration or local authority.

(2) If any person on behalf of a railway-administration, or on behalf of a local authority, or on behalf of the lessee of the collection of any toll or other impost leviable by a railway-administration or local authority, receives as money any piece of metal which is not such coin as aforesaid, he shall be punished with fine which may extend to ten rupees.

Amendment of section 28 of the Indian Penal Code.

9. For the *Explanation* to section 28 of the Indian Penal Code the following shall be substituted, namely :—

“*Explanation 1.*—It is not essential to counterfeiting that the imitation should be exact.

“*Explanation 2.*—When a person causes one thing to resemble another thing, and the resemblance is such that a person might be deceived thereby, it shall be presumed, until the contrary is proved, that the person so causing the one thing to resemble the other thing intended by means of that resemblance to practise deception or knew it to be likely that deception would thereby be practised.”

Act No. II. of 1889.

RECEIVED THE ASSENT OF THE GOVERNOR GENERAL ON THE
15TH FEBRUARY, 1889.

An Act to declare the imperial standard yard for the United Kingdom to be the legal standard measure of length in British India.

WHEREAS it is expedient to declare the imperial standard yard for the United Kingdom to be the legal standard measure of length in British India; It is hereby enacted as follows:—

Title, extent and commencement. 1. (1) This Act may be called the Measures of Length Act, 1889.

(2) It extends to the whole of British India; and

(3) It shall come into force on such day as the Governor General in Council may appoint in this behalf. ^{15th Jan. 1889}
^{15th Jan. 1889}
^{15th Jan. 1889}

2. The imperial standard yard for the United Kingdom shall be the legal standard measure of length in British India and be called the standard yard.
Standard yard.

3. A copy, approved by the Governor General in Council, of the imperial standard for determining the length of the imperial standard yard for the United Kingdom shall be kept in such place within the limits of the Town of Calcutta as the Governor General in Council may prescribe, and shall be the standard for determining the length of the standard yard. ^{29th Jan. 1889}
^{29th Jan. 1889}

4. One-third part of the standard yard shall be called a standard foot, and one thirty-sixth part of such a yard shall be called a standard inch.
Standard foot and inch.

5. Any measure having stamped thereon or affixed thereto a certificate purporting to be made under the authority of the Governor General in Council or of a Local Government, and stating that the measure is of
Presumption in favour of accuracy of certified measures.

the length of the standard yard or that a measure marked thereon as a foot or inch is of the length of the standard foot or standard inch, as the case may be, shall, when produced before any Court by any public servant having charge of the measure in pursuance of any direction published in an official Gazette by order of the Governor General in Council or the Local Government, or by any person acting under the general or special authority of such a public servant, be deemed to be correct until its inaccuracy is proved.

*See Burma
List of local
Rulers & British
R.I. (1896)
h. 495*

6. A public servant having in pursuance of such a direction charge of such a measure as is mentioned in the last foregoing section shall allow any person to inspect it free of charge at all reasonable times and to compare therewith or with any measure marked thereon any measure which such person may have in his possession.

7. There shall be kept by the Commissioner of Police in the Town of Calcutta under section 55 of the Calcutta Police Act, 1866, by the Commissioners in Calcutta under section 370 of the Calcutta Municipal Consolidation Act, 1889, by the Commissioner of Police in the City of Madras under section 32 of the Madras City Police Act, 1888, by the Municipal Commissioner in the City of Bombay under section 418 of the City of Bombay Municipal Act, 1888, and by the District Magistrate under section 20 of Regulation XII. of 1827 of the Bombay Code, such certified measures of the standard yard, standard foot and standard inch as are mentioned in section 5.

Certified measures to be kept by authorities required by existing enactments to keep measures of length.

Act No. III. of 1889. (*Burma.*)

Act No. IV. of 1889.

RECEIVED THE ASSENT OF THE GOVERNOR GENERAL ON THE
1ST MARCH, 1889.

An Act to amend the Law relating to Fraudulent Marks on Merchandise.

WHEREAS it is expedient to amend the law relating to fraudulent marks or merchandise; It is hereby enacted as follows :—

Title, extent and commencement.

1. (1) This Act may be called the Indian Merchandise Marks Act, 1889.

(2) It extends to the whole of British India; and, ~~subject to the provision of the last section of this Act,~~

See 1/11/1889

(3) It shall come into force on the first day of April 1889.

Definitions.

2. In this Act, unless there is something repugnant in the subject or context,—

(1) “trade mark” has the meaning assigned to that expression in section 478 of the Indian Penal Code as amended by this Act :

(2) “trade description” means any description, statement or other indication, direct or indirect, — ^{1 Cf. 50 & 51 V.C.} _{C. 2 & 3 (U).}

(a) as to the number, quantity, measure, gauge or weight of any goods, or

(b) as to the place or country in which, or the time at which, any goods were made or produced, or

(c) as to the mode of manufacturing or producing any goods, or

(d) as to the material of which any goods are composed, or

(e) as to any goods being the subject of an existing patent, privilege or copyright;

and the use of any numeral, word or mark which, according to the custom of the trade, is commonly taken to be an indication of any of the above matters shall be deemed to be a trade description within the meaning of this Act :

(3) “false trade description” means a trade description which is untrue in a material respect as regards the goods to which it is applied, and includes every alteration of a trade description, whether by way of addition, effacement, or otherwise, where that alteration makes the description untrue in a material respect, and the fact that a trade description is a trade mark or part of a trade mark shall not prevent such trade description being a false trade description within the meaning of this Act :

(4) “goods” means anything which is the subject of trade or manufacture : and

(5) “name” includes any abbreviation of a name.

Amendment of the Indian Penal Code.

Substitution of new sections for sections 478 to 480 of the Indian Penal Code.

3. For that part of Chapter XVIII. of the Indian Penal Code which relates to Trade and Property Marks, the following shall be substituted, namely :—

Of Trade, Property and Other Marks.

“478. A mark used for denoting that goods are the manufacture or merchandise of a particular person is called a trade mark, and for the purposes of this Code

Trade mark.

the expression ‘trade mark’ includes any trade mark which is registered in the register of trade marks kept under the Patents, Designs and Trade Marks Act, 1883, and any trade mark which, either with or without registration, is protected by law in any British possession or foreign State to which the provisions of the one hundred and third section of the Patents, Designs and Trade Marks Act, 1883, are, under order in Council, for the time being applicable.

“479. A mark used for denoting that moveable property belongs to a particular person is called a property mark.

Property mark.

“480. Whoever marks any goods or any case, package or other receptacle containing goods, or uses any case, package or other receptacle with any mark thereon, in a manner reasonably calculated to cause it to be believed that the goods so marked, or any goods contained in any such receptacle so marked, are the manufacture or merchandise of a person whose manufacture or merchandise they are not, is said to use a false trade mark.

“481. Whoever marks any moveable property or goods or any case, package or other receptacle containing moveable property or goods, or uses any case, package

Using a false property mark.

or other receptacle having any mark thereon, in a manner reasonably calculated to cause it to be believed that the property or goods so marked, or any property or goods contained in any such receptacle so marked, belong to a person to whom they do not belong, is said to use a false property mark.

“482. Whoever uses any false trade mark or any false property mark shall, unless he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Punishment for using a false trade mark or property mark.

“483. Whoever counterfeits any trade mark or property mark used by any other person shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Counterfeiting a trade mark or property mark used by another.

“484. Whoever counterfeits any property mark used by a public servant, or any mark used by a public servant

Counterfeiting a mark used by a public servant.

to denote that any property has been manufactured by a particular person or at a particular time or place, or that the property is of a particular quality or has passed through a particular office, or that it is entitled to any exemption, or uses as genuine any such mark knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

“485. Whoever makes or has in his possession any die, plate or other instrument for the purpose of counterfeiting a

Making or possession of any instrument for counterfeiting a trade mark or property mark.

trade mark or property mark, or has in his possession a trade mark or property mark for the purpose of denoting that any goods are the manufacture or merchandise of a person whose manufacture or merchandise they are not, or that they belong to a person to whom they do not belong, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

“486. Whoever sells, or exposes or has in possession for sale or any purpose of trade or manufacture, any goods or

Selling goods marked with a counterfeit trade mark or property mark.

things with a counterfeit trade mark or property mark affixed to or impressed upon the same or to or upon any case, package or other receptacle in which such goods are contained, shall, unless he proves—

(a) that, having taken all reasonable precautions against committing an offence against this section, he had at the time of the commission of the alleged offence no reason to suspect the genuineness of the mark, and

(b) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons from whom he obtained such goods or things, or

(c) that otherwise he had acted innocently,

be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

“487. Whoever makes any false mark upon any case, package or other receptacle containing goods, in a manner rea-

Making a false mark upon any receptacle containing goods.

sonably calculated to cause any public servant or any other person to believe that such receptacle contains goods which it does not contain or that it does not contain goods which it does contain or that the goods contained in such receptacle

are of a nature or quality different from the real nature or quality thereof shall, unless he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

“488. Whoever makes use of any such false mark in any manner prohibited by the last foregoing section shall, unless he proves that he acted without intent to defraud, be punished as if he had committed an offence against that section.

“489. Whoever removes, destroys, defaces or adds to any property mark, intending or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.”

Trade Descriptions.

¹ Cf 50051/14 c20 s3(2).
 4. (1) The provisions of this Act respecting the application of a false trade description to goods or respecting goods to which a false trade description is applied, shall extend to the application to goods of any such numerals, words or marks, or arrangement or combination thereof, whether including a trade mark or not, as are or is reasonably calculated to lead persons to believe that the goods are the manufacture or merchandise of some person other than the person whose manufacture or merchandise they really are, and to goods having such numerals, words or marks, or arrangement or combination, applied thereto.

² Cf 50051/14 c18.
³ 5(3)
 (2) The provisions of this Act respecting the application of a false trade description to goods, or respecting goods to which a false trade description is applied, shall extend to the application to goods of any false name or initials of a person, and to goods with the false name or initials of a person applied, in like manner as if such name or initials were a trade description, and for the purpose of this enactment the expression “false name or initials” means as applied to any goods any name or initials—

(a) not being a trade mark, or part of a trade mark, and

(b) being identical with, or a colourable imitation of, the name or initials of a person carrying on business in connection with goods of the same description and not having authorised the use of such name or initials.

(3) A trade description which denotes or implies that there are contained in any goods to which it is applied more yards, feet or inches than there are contained therein standard yards, standard feet or standard inches is a false trade description.

Application of trade descriptions.

5. (1) A person shall be deemed to apply a trade description to goods who—

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- (a) applies it to the goods themselves, or
- (b) applies it to any covering, label, reel or other thing in or with which the goods are sold or are exposed or had in possession for sale or any purpose of trade or manufacture, or
- (c) places, encloses or annexes any goods which are sold, or are exposed or had in possession for sale or any purpose of trade or manufacture, in, with or to any covering, label, reel or other thing to which a trade description has been applied, or
- (d) uses a trade description in any manner reasonably calculated to lead to the belief that the goods in connexion with which it is used are designated or described by that trade description.

(2) A trade description shall be deemed to be applied whether it is woven, impressed or otherwise worked into or annexed or affixed to the goods or any covering, label, reel or other thing.

(3) The expression “covering” includes any stopper, cask, bottle, vessel, box, cover, capsule, case, frame or wrapper, and the expression “label” includes any band or ticket.

6. If a person applies a false trade description to goods, he shall, subject to the provisions of this Act, and unless he proves that he acted without intent to defraud, be punished with imprisonment for a term which may extend to three months or with fine which may extend to two hundred rupees, and in the case of a second or subsequent conviction with imprisonment which may extend to one year, or with fine, or with both.

Penalty for applying a false trade description.

Penalty for selling goods to which a false trade description is applied.

7. If a person sells, or exposes or has in possession for sale or any purpose of trade or manufacture, any goods or things to which a false trade description is applied, he shall, unless he proves—

- (a) that, having taken all reasonable precautions against committing an offence against this section, he had at the time of the commission of the alleged offence no reason to suspect the genuineness of the trade description, and

(b) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons from whom he obtained such goods or things, or

(c) that otherwise he had acted innocently,

be punished with imprisonment for a term which may extend to three months or with fine which may extend to two hundred rupees, and in case of a second or subsequent conviction with imprisonment which may extend to one year, or with fine, or with both.

*Unintentional Contravention of the Law relating to
Marks and Descriptions.*

¹8. Where a person is accused under section 482 of the Indian Penal Code of using a false trade mark or property mark by reason of his having applied a mark to any goods, property or receptacle in the manner mentioned in section 480 or section 481 of that Code, as the case may be, or under section 6 of this Act of applying to goods any false trade description, or under section 485 of the Indian Penal Code of making any die, plate or other instrument for the purpose of counterfeiting a trade mark or property mark, and proves—

(a) that in the ordinary course of his business he is employed, on behalf of other persons, to apply trade marks or property marks, or trade descriptions, or, as the case may be, to make dies, plates or other instruments for making, or being used in making, trade marks or property marks, and that in the case which is the subject of the charge he was so employed and was not interested in the goods or other thing by way of profit or commission dependent on the sale thereof, and

(b) that he took reasonable precautions against committing the offence charged, and

(c) that he had, at the time of the commission of the alleged offence, no reason to suspect the genuineness of the mark or description, and

(d) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons on whose behalf the mark or description was applied,

he shall be acquitted.

Forfeiture of Goods.

²9. (1) When a person is convicted under section 482 of the Indian Penal Code of using a false trade mark, or under section 486 of that Code of selling, or exposing or having in possession for sale or any purpose of trade or manufac-

ture, any goods or things with a counterfeit trade mark applied thereto, or under section 487 or section 488 of that Code of making, or making use of, a false mark, or under section 6 or section 7 of this Act of applying a false trade description to goods or of selling, or exposing or having in possession for sale or any purpose of trade or manufacture, any goods or things to which a false trade description is applied, or is acquitted on proof of the matter or matters specified in section 486 of the Indian Penal Code or section 7 or section 8 of this Act, the Court convicting or acquitting him may direct the forfeiture to Her Majesty of all goods and things by means of, or in relation to, which the offence has been committed or, but for such proof as aforesaid, would have been committed.

(2) When a forfeiture is directed on a conviction and an appeal lies against the conviction, an appeal shall lie against the forfeiture also.

(3) When a forfeiture is directed on an acquittal and the goods or things to which the direction relates are of value exceeding fifty rupees, an appeal against the forfeiture may be preferred, within thirty days from the date of the direction, to the Court to which in appealable cases appeals lie from sentences of the Court which directed the forfeiture.

Amendment of the Sea Customs Act, 1878.

*1 Cf. 5055/11. c. 28
a. 16(2).*

Amendment of section 18, Act
VIII. of 1878.

10. (1) For clause (d) of section 18 of the Sea Customs Act, 1878, the following shall be substituted, namely:—

“(d) goods having applied thereto a counterfeit trade mark within the meaning of the Indian Penal Code, or a false trade description within the meaning of the Indian Merchandise Marks Act, 1889 :

(e) goods made or produced beyond the limits of the United Kingdom and British India and having applied thereto any name or trade mark being, or purporting to be, or being a colourable imitation of, the name or trade mark of any person who is a manufacturer, dealer or trader in the United Kingdom or in British India, unless—

(i) the name or trade mark is, as to every application thereof, accompanied by a definite indication of the goods having been made or produced in a place beyond the limits of the United Kingdom and British India, and

^{2 1/2 to country in which}
(ii) ~~that place and the country in which it is~~ ^{2 1/2 18/91 s. 3.} situated are in that indication indicated in letters as large and conspicuous as any letter in the name or trade mark, and in the same language and character as the name or trade mark :”

(2) To section 18 of the Sea Customs Act, 1878, as amended by subsection (1) the following shall be added, namely :—

“(f) piece-goods, such as are ordinarily sold by length or by the piece, which—

(i) have not conspicuously stamped in English numerals on each piece the length thereof in standard yards, or in standard yards and a fraction of such a yard, according to the real length of the piece, and

(ii) have been manufactured beyond the limits of India, or,

(iii) having been manufactured within those limits, have been manufactured beyond the limits of British India in premises which, if they were in British India, would be a factory as defined in the Indian Factories Act, 1881.”

11. The following shall be added after section 19 of the Sea Customs Act, 1878, namely :—
Addition of a section after section 19, Act VIII. of 1878.

“19 A. (1) Before detaining any such goods as are or may be specified in or under section 18 or section 19, as the case may be, or taking any further proceedings with a view to the confiscation thereof under this Act, the Chief Customs-officer or other officer appointed by the Local Government in this behalf may require the regulations under this section, whether as to information, security, conditions or other matters, to be complied with, and may satisfy himself in accordance with those regulations that the goods are such as are prohibited to be imported.

(2) The Governor General in Council may make regulations, either general or special, respecting the detention and confiscation of goods the importation of which is prohibited, and the conditions, if any, to be fulfilled before such detention and confiscation, and may by such regulations determine the information, notices and security to be given, and the evidence requisite for any of the purposes of this section and the mode of verification of such evidence.

(3) Where there is on any goods a name which is identical with, or a colourable imitation of, the name of a place in the United Kingdom or British India, that name, unless accompanied in equally large and conspicuous letters, and in the same language and character, by the name of the country in which such place is situate, shall be treated for the purposes of sections 18 and 19 as if it were the name of a place in the United Kingdom or British India.

(4) Such regulations may apply to all goods the importation of which is prohibited by section 18 or under section 19, or different regulations may be made respecting different classes of such goods or of offences in relation to such goods.

(5) The regulations may provide for the informant reimbursing any public officer and the Secretary of State for India in Council all expenses and damages incurred in respect of any detention made on his information, and of any proceedings consequent on such detention.

(6) All regulations under this section shall be published in the Gazette of India and in the Calcutta, Fort St. George, Bombay and Burma Gazettes."

Stamping of Length of Piece-goods manufactured in British India.

12. (1) Piece-goods, such as are ordinarily sold by length or by the piece, which have been manufactured in premises which are a factory as defined in the Indian Factories Act, 1881, shall not be removed from those premises without having conspicuously stamped in English numerals on each piece the length thereof in standard yards, or in standard yards and a fraction of such a yard, according to the real length of the piece.

(2) If any person removes or attempts to remove any such piece-goods from any such premises without the length of each piece being stamped in the manner mentioned in sub-section (1), every such piece, and everything used for the packing or removal thereof, shall be forfeited to Her Majesty, and such person shall be punished with fine which may extend to one thousand rupees.

Supplemental Provisions.

13. In the case of goods brought into British India by sea, evidence of the port of shipment shall, in a prosecution for an offence against this Act or section 18 of the Sea Customs Act, 1878, as amended by this Act, be *primâ facie* evidence of the place or country in which the goods were made or produced. *Cf. 50451/12 c. 28 s. 10 (2)*

14. (1) On any such prosecution as is mentioned in the last foregoing section, or on any prosecution for an offence against any of the sections of the Indian Penal Code, as amended by this Act, which relate to trade, property and other marks, the Court may order costs to be paid to the defendant by the prosecutor, or to the prosecutor by the defendant, having regard to the information given by and the conduct of the defendant and prosecutor respectively. *Cf. 50451/12 c. 28 s. 14*

(2) Such costs shall, on application to the Court, be recoverable as if they were a fine.

¹15. No such prosecution as is mentioned in the last foregoing section shall be commenced after the expiration of three years next after the commission of the offence, or one year after the first discovery thereof by the prosecutor, whichever expiration first happens.

²16. (1) The Governor General in Council may, by notification in the Gazette of India and in local official Gazettes, issue instructions² for observance by Criminal Courts in giving effect to any of the provisions of this Act.

(2) Instructions under sub-section (1) may provide, among other matters, for the limits of variation as regards number, quantity, measure, gauge or weight, which are to be recognised by Criminal Courts as permissible in the case of any goods.

³17. On the sale or in the contract for the sale of any goods to which a trade mark or mark or trade description has been applied, the seller shall be deemed to warrant that the mark is a genuine mark and not counterfeit or falsely used, or that the trade description is not a false trade description within the meaning of this Act, unless the contrary is expressed in some writing signed by or on behalf of the seller and delivered at the time of the sale or contract to and accepted by the buyer.

⁴18. (1) Nothing in this Act shall exempt any person from any suit or other proceeding which might, but for anything in this Act, be brought against him.

(2) Nothing in this Act shall entitle any person to refuse to make a complete discovery or to answer any question or interrogatory in any suit or other proceeding, but such discovery or answer shall not be admissible in evidence against such person in any such prosecution as is mentioned in section 14.

(3) Nothing in this Act shall be construed so as to render liable to any prosecution or punishment any servant of a master resident in British India who in good faith acts in obedience to the instructions of such master, and, on demand made by or on behalf of the prosecutor, has given full information as to his master and as to the instructions which he has received from his master.

22 added by 19-22 446

17/9/11-4, 6
54 J. (1891) P. 26 (8).

12/9132.

Date of commencement of this Act as regards unstamped piece-goods.

3. In section 244 of the same Act, for the words “and that the petitioner is the executor therein named” the following shall be substituted, namely :—

“the amount of assets which are likely to come to the petitioner’s hands, and

“that the petitioner is the executor named in the will;”.

Amendment of section 254, Act X., 1865. 4. For the last forty-two words of section 254 of the same Act, the following shall be substituted, namely :—

“he having undertaken to administer the same, and to make a full and true inventory of the said property and credits and exhibit the same in this Court within six months from the date of this grant or within such further time as the Court may from time to time appoint, and also to render to this Court a true account of the said property and credits within one year from the same date or within such further time as the Court may from time to time appoint.”

Amendment of section 255, Act X., 1865. 5. For the last forty-five words of section 255 of the same Act the following shall be substituted, namely :—

“he having undertaken to administer the same, and to make a full and true inventory of the said property and credits and exhibit the same in this Court within six months from the date of this grant or within such further time as the Court may from time to time appoint, and also to render to this Court a true account of the said property and credits within one year from the same date or within such further time as the Court may from time to time appoint.”

6. In section 256 of the same Act, for the words “Every person to whom any grant of administration shall be committed” the words “Every person to whom any grant of letters of administration is committed” shall be substituted.

Amendment of section 256, Act X., 1865.

Substitution of new section for section 277, Act X., 1865.

7. For section 277 of the same Act the following shall be substituted, namely :—

“277. (1) An executor or administrator shall, within six months from the grant of probate or letters of administration, or within such further time as the Court which granted the probate or letters may from time to time appoint, exhibit in that Court an inventory containing a full and true estimate of all the property in

possession, and all the credits, and also all the debts owing by any person to which the executor or administrator is entitled in that character, and shall in like manner, within one year from the grant or within such further time as the said Court may from time to time appoint, exhibit an account of the estate, showing the assets which have come to his hands and the manner in which they have been applied or disposed of.

“(2) The High Court may from time to time prescribe the form in which an inventory or account under this section is to be exhibited.

“(3) If an executor or administrator, on being required by the Court to exhibit an inventory or account under this section, intentionally omits to comply with the requisition, he shall be deemed to have committed an offence under section 176 of the Indian Penal Code.

“(4) The exhibition of an intentionally false inventory or account under this section shall be deemed to be an offence under section 193 of that Code.”

8. In section 277A of the same Act, for the words “it is sought to obtain a grant” the words “a grant has been made”, and for the words and figures “the person applying for administration after the first day of April 1875,” the word “administrator”, shall be substituted.

Amendment of section 277A,
Act X., 1865.

9. (1) In section 283 of the same Act, for the words “the country in which he was domiciled” the words “British India” shall be substituted.

Amendment of section 283, Act
X., 1865.

(2) The *illustration* to the same section is hereby repealed.

127/91 22/1/1889
P.C.

Addition to Act X., 1865.

10. To the same Act the following shall be added, namely :—

“333. (1) When a grant of probate or letters of administration is revoked or annulled under this Act, the person to whom the grant was made shall forthwith deliver up the probate or letters to the Court which made the grant.

Surrender of revoked probate
or letters of administration.

“(2) If such person wilfully and without reasonable cause omits so to deliver up the probate or letters, he shall be punished with fine which may extend to one thousand rupees, or with imprisonment of either description for a term which may extend to three months, or with both.”

Probate and Administration Act, 1881.

11. After the 4th clause of the *explanation* to section 50 of the Probate and Administration Act, 1881, the following shall be added, namely :—

Amendment of section 50, Act
V., 1881.

"5th, that the person to whom the grant was made has wilfully and without reasonable cause omitted to exhibit an inventory or account in accordance with the provisions of Chapter VII. of this Act, or has exhibited under that Chapter an inventory or account which is untrue in a material respect."

12. For the portion of section 76 of the same Act, beginning with the words "he having undertaken to administer the same" and ending with the words "within one year from the same date" the following shall be substituted, namely:—

Amendment of section 76, Act V., 1881.

"he having undertaken to administer the same, and to make a full and true inventory of the said property and credits and exhibit the same in this Court within six months from the date of this grant or within such further time as the Court may from time to time appoint, and also to render to this Court a true account of the said property and credits within one year from the same date or within such further time as the Court may from time to time appoint."

13. For the portion of section 77 of the same Act beginning with the words "he having undertaken to administer the same" and ending with the words "within one year from the same date" the following shall be substituted, namely:—

Amendment of section 77, Act V., 1881.

"he having undertaken to administer the same, and to make a full and true inventory of the said property and credits and exhibit the same in this Court within six months from the date of this grant or within such further time as the Court may from time to time appoint, and also to render to this Court a true account of the said property and credits within one year from the same date or within such further time as the Court may from time to time appoint."

Substitution of new section for section 90, Act V., 1881.

14. For section 90 of the same Act the following shall be substituted, namely:—

"90. (1) An executor or administrator has, subject to the provisions of this section, power to dispose, as he thinks fit, of all or any of the property for the time being vested in him under section 4.

Power of executor or administrator to dispose of property.

"(2) The power of an executor to dispose of immoveable property so vested in him is subject to any restriction which may be imposed in this behalf by the will appointing him, unless probate has been granted to him and the Court which granted the probate permits him by an order in writing, notwithstanding the restriction, to dispose of any immoveable property specified in the order in a manner permitted by the order.

“(3) An administrator may not, without the previous permission of the Court by which the letters of administration were granted,—

(a) mortgage, charge or transfer by sale, gift, exchange or otherwise any immoveable property for the time being vested in him under section 4, or

(b) lease any such property for a term exceeding five years.

“(4) A disposal of property by an executor or administrator in contravention of sub-section (2) or sub-section (3), as the case may be, is voidable at the instance of any other person interested in the property.

“(5) Before any probate or letters of administration is or are granted under this Act there shall be endorsed thereon or annexed thereto a copy of sub-sections (1), (2) and (4), or of sub-sections (1), (3) and (4), as the case may be.

“(6) A probate or letters of administration shall not be rendered invalid by reason of the endorsement or annexure required by the last foregoing sub-section not having been made thereon or attached thereto, nor shall the absence of such an endorsement or annexure authorise an executor or administrator to act otherwise than in accordance with the provisions of this section.”

Substitution of new section for section 98, Act V., 1881.

15. For section 98 of the same Act the following shall be substituted, namely:—

“98. (1) An executor or administrator shall, within six months from the grant of probate or letters of administration, or within such further time as the Court Inventory and account. which granted the probate or letters may from time to time appoint, exhibit in that Court an inventory containing a full and true estimate of all the property in possession, and all the credits, and also all the debts owing by any person to which the executor or administrator is entitled in that character, and shall in like manner, within one year from the grant or within such further time as the said Court may from time to time appoint, exhibit an account of the estate, showing the assets which have come to his hands and the manner in which they have been applied or disposed of.

“(2) The High Court may from time to time prescribe the form in which an inventory or account under this section is to be exhibited.

“(3) If an executor or administrator, on being required by the Court to exhibit an inventory or account under this section, intentionally omits to comply with the requisition, he shall be deemed to have committed an offence under section 176 of the Indian Penal Code.

“(4) The exhibition of an intentionally false inventory or account under this section shall be deemed to be an offence under section 193 of that Code.”

16. In section 99 of the same Act, for the words “it is sought to obtain a grant” the words “a grant has been made”, and for the words “the person applying for administration” the word “administrator”, shall be substituted.

Amendment of section 99, Act V., 1881.

Addition to Act V., 1881.

17. To the same Act the following shall be added, namely :—

“157. (1) When a grant of probate or letters of administration is revoked or annulled under this Act, the person to whom the grant was made shall forthwith deliver up the probate or letters to the Court which made the grant.

Surrender of revoked probate or letters of administration.

“(2) If such person wilfully and without sufficient cause omits so to deliver up the probate or letters, he shall be punished with fine which may extend to one thousand rupees, or with imprisonment which may extend to three months, or with both.”

ii/99.

Court-fees Act, 1870, and Indian Stamp Act, 1870.

*xii/91 2.2 (1)
1870, and Act I., 1879.*

Amendment of Act VII., 1870, and Act I., 1879.

18. (1) Article 16 (Administration-bond) of the second schedule to the Court-fees Act, 1870, is hereby repealed.

(2) In article 6 of the second schedule to the Court-fees Act, 1870, for the words “Bail-bond or other instrument of obligation not otherwise provided for by this Act, when given by the direction of any Court or executive authority” the following words shall be substituted, namely :—

“Bail-bond or other instrument of obligation given in pursuance of an order made by a Court or Magistrate under any section of the Code of Criminal Procedure, 1882, or the Code of Civil Procedure.”

*2/99 579.
sub ii.*

(3) In article 2 of the first schedule to the Indian Stamp Act, 1879, after the words “Administration-bond” the following shall be added, namely :—

“including a bond given under section 256 of the Indian Succession Act, 1865, section 6 of the Government Savings Banks Act, 1873, section 78 of the Probate and Administration Act, 1881, or section 9 or section 10 of the Succession Certificate Act, 1889.”

(4) In article 13 of the first schedule to the Indian Stamp Act, 1879, ^{17/9/89} after the words "not otherwise provided for by this Act" there shall be ^{54.17} added the words "or by the Court-fees Act, 1870."

Miscellaneous.

19. Notwithstanding anything in section 90 of the Probate and Administration Act, 1881, a disposal of property by an executor or administrator who was appointed before the commencement of this Act, and to whom the provisions of that section were applicable, shall not be void by reason only that the consent of the Court to the disposal of the property was not obtained.

20. ¹ (1) ~~Any penalty or forfeiture under section 10G or section 10H of the Court-fees Act, 1870, may, on the certificate of the Chief Controlling Revenue-authority, be recovered from the executor or administrator as if it were an arrear of land-revenue by any Collector in any part of British India.~~ ^{17/9/89}

(2) The Chief Controlling Revenue-authority may remit the whole or any part of any such penalty or forfeiture, or any part of any further penalty ~~payable under section 10E of the said Act.~~

21. ² (Repeals part of a Bengal Act.)

^{27/9/89}
P.C.

Act No. VII. of 1889.

RECEIVED THE ASSENT OF THE GOVERNOR GENERAL ON THE
8TH MARCH, 1889.

THE SUCCESSION CERTIFICATE ACT, 1889.

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22. Validation of certain payments made in good faith to holder of invalid certificate.
23. Prohibition of exercise of certain powers by curators.
24. Effect of certain probates and letters.
25. Effect of decisions under this Act, and liability of holder of certificate thereunder.
26. Investiture of inferior Courts with jurisdiction of District Court for purposes of this Act.
27. Surrender of superseded and invalid certificate.
28. Provisions with respect to certificates under Bombay Regulation VIII. of 1827.

THE FIRST SCHEDULE.—ENACTMENTS REPEALED.

THE SECOND SCHEDULE.—FORMS OF CERTIFICATE AND EXTENDED CERTIFICATE.

An Act to facilitate the collection of debts on successions and afford protection to parties paying debts to the representatives of deceased persons.

WHEREAS it is expedient to facilitate the collection of debts on successions and afford protection to parties paying debts to the representatives of deceased persons ; It is hereby enacted as follows :—

Title, commencement, extent and application.

1. (1) This Act may be called the Succession Certificate Act, 1889.

(2) It shall come into force on the first day of May, 1889 ; and

(3) It extends to the whole of British India (inclusive of Upper Burma except the Shan States) ;

¹(4) But a certificate shall not be granted thereunder with respect to any debt or security to which a right can be established by probate or letters of administration under the Indian Succession Act, 1865, or by probate of a will to which the Hindu Wills Act, 1870, applies, or by letters of administration with a copy of such a will annexed.

2. (1) The enactments specified in the first schedule are repealed to the extent mentioned in the third column thereof.

Repeal.

(2) But nothing in this Act shall affect any certificate granted before the commencement of this Act under Act XXVII. of 1860 or any enactment repealed by that Act.

(3) Any enactment except this Act and section 152 of the Probate and Administration Act, 1881, or any document, referring to any enactment repealed by this Act, shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

(1) “District Court”, subject to the other provisions of this Act and to the provisions of proviso (b) to section 23 of the Punjab Courts Act, 1884, and of any other like enactment for the time being in force, means a Court presided over by a District Judge: and

(2) “security” means—

(a) any promissory note, debenture, stock or other security of the Government of India;

(b) any bond, debenture or annuity charged by the Imperial Parliament on the revenues of India;

(c) any stock or debenture of, or share in, a company or other incorporated institution;

(d) any debenture or other security for money issued by, or on behalf of, a local authority;

(e) any other security which the Governor General in Council may, by notification in the *Gazette of India*, declare to be a security for the purposes of this Act.

Proof of representative title a condition precedent to recovery through the Courts of debts from debtors of deceased persons.

4. (1) No Court shall—

(a) pass a decree against a debtor of a deceased person for payment of his debt to a person claiming to be entitled to the effects of the deceased person or to any part thereof, or

(b) proceed, upon an application of a person claiming to be so entitled, to execute against such a debtor a decree or order for the payment of his debt,

except on the production, by the person so claiming, of—

(i) a probate or letters of administration evidencing the grant to him of administration to the estate of the deceased, or

(ii) a certificate granted under section 36 or section 37 of the Administrator General's Act, 1874, and having the debt mentioned therein, or

(iii) a certificate granted under this Act and having the debt specified therein, or

(iv) a certificate granted under Act XXVII. of 1860 or an enactment repealed by that Act, or

(v) a certificate granted under the Regulation of the Bombay Code No. VIII. of 1827 and, if granted after the commencement of this Act, having the debt specified therein.

(2) The word "debt" in sub-section (1) includes any debt except rent, revenue or profits payable in respect of land used for agricultural purposes.

5. The District Court within the jurisdiction of which the deceased ordinarily resided at the time of his death, or if at that time he had no fixed place of residence then within the jurisdiction of which any part of the property of the deceased may be found, may grant a certificate under this Act.

6. (1) Application for such a certificate must be made to the District Court by a petition signed and verified by or on behalf of the applicant in the manner prescribed by the Code of Civil Procedure for the signing and verification of a plaint by or on behalf of a plaintiff, and setting forth the following particulars, namely:—

- (a) the time of the death of the deceased;
- (b) the ordinary residence of the deceased at the time of his death and, if such residence was not within the local limits of the jurisdiction of the Court to which the application is made, then the property of the deceased within those limits;
- (c) the family or other near relatives of the deceased and their respective residences;
- (d) the right in which the petitioner claims;
- (e) the absence of any impediment under section 1, sub-section (4), or under any other provision of this Act or any other enactment, to the grant of the certificate or to the validity thereof if it were granted; and
- (f) the debts and securities in respect of which the certificate is applied for.

(2) If the petition contains any averment which the person verifying it knows or believes to be false, or does not believe to be true, that person shall be subject to punishment according to the provisions of the law for the time being in force for the punishment of giving or fabricating false evidence.

7. (1) If the District Court is satisfied that there is ground for entertaining the application, it shall fix a day for the hearing thereof and cause notice of the application and of the day fixed for the hearing—

Procedure on application.

(a) to be served on any person to whom, in the opinion of the Court, special notice of the application should be given, and

(b) to be posted on some conspicuous part of the court-house and published in such other manner, if any, as the Court, subject to any rules made by the High Court in this behalf, thinks fit,

and upon the day fixed, or as soon thereafter as may be practicable, shall proceed to decide in a summary manner the right to the certificate.

(2) When the Court decides the right thereto to belong to the applicant, it shall make an order for the grant of the certificate to him.

(3) If the Court cannot decide the right to the certificate without determining questions of law or fact which seem to it to be too intricate and difficult for determination in a summary proceeding, it may nevertheless grant a certificate to the applicant if he appears to be the person having *prima facie* the best title thereto.

(4) When there are more applicants than one for a certificate and it appears to the Court that more than one of such applicants are interested in the estate of the deceased, the Court may, in deciding to whom the certificate is to be granted, have regard to the extent of interest, and the fitness in other respects, of the applicants.

8. When the District Court grants a certificate, it shall therein specify the debts and securities set forth in the application for the certificate and may thereby empower the person to whom the certificate is granted—

Contents of certificate.

(a) to receive interest or dividends on, or

(b) to negotiate or transfer, or

(c) both to receive interest or dividends on, and to negotiate or transfer,

the securities or any of them.

9. (1) The District Court shall in any case in which it proposes to proceed under section 7, sub-section (3) or sub-section (4), and may in any other case, require, as a condition precedent to the granting of a certificate, that the person to whom it proposes to make the grant shall give to the Judge of the Court, to enure for the benefit of the Judge for the time being, a bond with one or more surety or sureties, or other sufficient security, for rendering an account of debts and securities received by him and for indemnity of persons who may be entitled to the whole or any part of those debts and securities.

(2) The Court may, on application made by petition and on cause shown to its satisfaction, and upon such terms as to security, or providing that the money received be paid into Court, or otherwise as the Court thinks fit, assign the bond or other security to some proper person, and that person shall thereupon be entitled to sue thereon in his own name as if it had been originally given to him instead of to the Judge of the Court, and to recover, as trustee for all persons interested, such amount as may be recoverable thereunder.

10. (1) A District Court may from time to time, on the application of the holder of a certificate under this Act, extend the certificate to any debt or security not originally specified therein, and every such extension shall have the same effect as if the debt or security to which the certificate is extended had been originally specified therein.

(2) Upon the extension of a certificate, powers with respect to the receiving of interest or dividends on, or the negotiation or transfer of, any security to which the certificate has been extended may be conferred, and a bond or further bond or other security for the purposes mentioned in the last foregoing section may be required, in the same manner as upon the original grant of a certificate.

11. Certificates shall be granted and extensions of certificates shall be made, as nearly as circumstances admit, in the forms set forth in the second schedule.

12. Where a District Court has not conferred on the holder of a certificate any power with respect to a security specified in the certificate, or has only empowered him to receive interest or dividends on, or to negotiate or transfer, the security, the Court may, on application made by petition and on cause shown to its satisfaction, amend the certificate by conferring any of the powers mentioned in section 8, or by substituting any one for any other of those powers.

13. (1) For articles 11 and 12 of the first schedule to the Court-fees Act, 1870, the following shall be substituted, Amendment of Act VII., 1870. namely :—

Number.		Proper fee.
" 11. Probate of a will or letters of administration with or without will annexed.	If the amount or value of the property in respect of which the grant of probate or letters is made exceeds one thousand rupees.	Two per centum on such amount or value : provided that when, after the grant of a certificate under the Succession Certificate Act, 1889, or any enactment repealed by that Act, or under the Regulation of the Bombay Code No. VIII. of 1827, in respect of any property included in an estate, a grant of probate or letters of administration is made in respect of the same estate, the fee payable in respect of the latter grant shall be reduced by the amount of the fee paid in respect of the former grant.
" 12. Certificate under the Succession Certificate Act, 1889.	In any case	Two per centum on the amount or value of any debt or security specified in the certificate under section 8 of the Act, and three per centum on the amount or value of any debt or security to which the certificate is extended under section 10 of the Act. NOTE.—(1) The amount of a debt is its amount, including interest, on the day on which the inclusion of the debt in the certificate is applied for, so far as such amount can be ascertained. (2) Whether or not any power with respect to a security specified in a certificate has been conferred under the Act, and, where such a power has been so conferred, whether the power is for the receiving of interest or dividends on, or for the negotiation or transfer of, the security, or for both purposes, the value of the security is its market-value on the day on which the inclusion of the security in the certificate is applied for, so far as such value can be ascertained.
" 12A. Certificate under the Regulation of the Bombay Code No. VIII. of 1827.	.....	(1) As regards debts and securities, the same fee as would be payable in respect of a certificate under the Succession Certificate Act, 1889, or in respect of an extension of such a certificate, as the case may be, and (2) as regards other property in respect of which the certificate is granted, two per centum on so much of the amount or value of such property as exceeds one thousand rupees."

(2) In the Court-fees Act, 1870, section 19, clause viii., for the words and figures "and certificate mentioned in the First Schedule to this Act annexed, No. 12," the words and figures "and, save as regards debts and securities, a certificate under Bombay Regulation VIII. of 1827" shall be substituted.

14. (1) Every application for a certificate or for the extension of a certificate must be accompanied by a deposit of a sum equal to the fee payable under the first schedule to the Court-fees Act, 1870, in respect of the certificate or extension applied for.

Mode of collecting court-fees on certificates.

(2) If the application is allowed, the sum deposited by the applicant shall be expended, under the direction of the Court, in the purchase of the stamp to be used for denoting the fee payable as aforesaid.

(3) Any sum received under sub-section (1) and not expended under sub-section (2) shall be refunded to the person who deposited it.

15. A certificate under this Act shall have effect throughout the whole of British India.

Local extent of certificate.

16. Subject to the provisions of this Act, the certificate of the District Court shall, with respect to the debts and securities specified therein, be conclusive as against the persons owing such debts or liable on such securities, and shall, notwithstanding any contravention of section 1, sub-section (4), or other defect, afford full indemnity to all such persons as regards all payments made, or dealings had, in good faith in respect of such debts or securities to or with the person to whom the certificate was granted.

Effect of certificate.

17. Where a certificate in the form, as nearly as circumstances admit, of the second schedule has been granted to a resident within a Foreign State by the British representative accredited to the State, or where a certificate so granted has been extended in such form by such representative, the certificate shall, when stamped in accordance with the provisions of the Court-fees Act, 1870, with respect to certificates under this Act, have the same effect in British India as a certificate granted or extended under this Act.

Effect of certificate granted or extended by British representative in Foreign State.

18. A certificate granted under this Act may be revoked for any of the following causes, namely :—

Revocation of certificate.

(a) that the proceedings to obtain the certificate were defective in substance ;

- (b) that the certificate was obtained fraudulently by the making of a false suggestion, or by the concealment from the Court of something material to the case ;
- (c) that the certificate was obtained by means of an untrue allegation of a fact essential in point of law to justify the grant thereof, though such allegation was made in ignorance or inadvertently ;
- (d) that the certificate has become useless and inoperative through circumstances ;
- (e) that a decree or order made by a competent Court in a suit or other proceeding with respect to effects comprising debts or securities specified in the certificate renders it proper that the certificate should be revoked.

19. (1) Subject to the other provisions of this Act, an appeal shall lie to the High Court from an order of a District Court granting, refusing or revoking a certificate under this Act, and the High Court may, if it thinks fit, by its order on the appeal, declare the person to whom the certificate should be granted and direct the District Court, on application being made therefor, to grant it accordingly, in supersession of the certificate, if any, already granted.

(2) An appeal under sub-section (1) must be preferred within the time allowed for an appeal under the Code of Civil Procedure.

(3) Subject to the provisions of sub-section (1) and of Chapters XLVI. and XLVII. of the Code of Civil Procedure as applied by section 647 of that Code, an order of a District Court under this Act shall be final.

20. Save as provided by this Act, a certificate granted thereunder in respect of any of the effects of a deceased person shall be invalid if there has been a previous grant of such a certificate or of probate or letters of administration in respect of the estate of the deceased person and if such previous grant is in force.

21. (1) A grant of probate or letters of administration under the Probate and Administration Act, 1881, in respect of an estate shall be deemed to supersede any certificate previously granted under this Act in respect of any debts or securities included in the estate.

S. 19 (2).—The time is ninety days from the date of the order. See Art. 156, Sch. II., Act XV. of 1877.

(2) When at the time of the grant of the probate or letters any suit or other proceeding instituted by the holder of the certificate regarding any such debt or security is pending, the person to whom the grant is made shall, on applying to the Court in which the suit or proceeding is pending, be entitled to take the place of the holder of the certificate in the suit or proceeding.

22. Where a certificate under this Act has been superseded or is invalid by reason of the certificate having been revoked under section 18, or by reason of the grant of a certificate to a person named in an appellate order under section 19, or by reason of a certificate having been previously granted, or by reason of a grant of probate or letters of administration, or for any other cause, all payments made, or dealings had, as regards debts and securities specified in the superseded or invalid certificate, to or with the holder of that certificate in ignorance of its supersession or invalidity, shall be held good against claims under any other certificate or under the probate or letters of administration.

23. (1) Where a certificate has been granted under this Act or Act XXVII. of 1860, or a grant of probate or letters of administration has been made, a curator appointed under Act XIX. of 1841 shall not exercise any authority lawfully belonging to the holder of the certificate or to the executor or administrator :

(2) But persons who have paid debts or rents to a curator authorised by a Court to receive them shall be indemnified, and the curator shall be responsible for the payment thereof to the person who has obtained the certificate, probate or letters of administration, as the case may be.

24. Any probate or letters of administration granted before the first day of April, 1881, by any Supreme or High Court of Judicature, or by the Court of a Recorder in Burma, in any case in which the deceased person was not a British subject within the meaning of that expression as used in the charters of the Supreme Courts of Judicature, and in which any assets belonging to him were at the time of his death within the local limits of the jurisdiction of the Court shall, for the purpose of the recovery of debts, the protection of persons paying debts, and the negotiation or transfer of securities included in the estate of the deceased, be deemed to have and to have had the effect which a grant of probate or letters of administration has under the Indian Succession Act, 1865 :

Provided that nothing in this section shall be construed to validate any disposal of property by an executor or administrator which has before the commencement of this Act been declared by any competent Court to be invalid.

25. No decision under this Act upon any question of right between any parties shall be held to bar the trial of the same question in any suit or in any other proceeding between the same parties, and nothing in this Act shall be construed to affect the liability of any person who may receive the whole or any part of any debt or security, or any interest or dividend on any security, to account therefor to the person lawfully entitled thereto.

Effect of decisions under this Act, and liability of holder of certificate thereunder.

26. (1) The Local Government may, by notification in the official Gazette, invest any Court inferior in grade to a District Court with the functions of a District Court under this Act, and may cancel or vary any such notification.

Investiture of inferior Courts with jurisdiction of District Court for purposes of this Act.

Amendment of Local Rules and Order Vol. 1 (1904) pp 495

(2) Any inferior Court so invested shall, within the local limits of its jurisdiction, have concurrent jurisdiction with the District Court in the exercise of all the powers conferred by this Act upon the District Court, and the provisions of this Act relating to the District Court shall apply to such an inferior Court as if it were a District Court :

Provided that an appeal from any such order of an inferior Court as is mentioned in sub-section (1) of section 19 shall lie to the District Court, and not to the High Court, and that the District Court may, if it thinks fit by its order on the appeal, make any such declaration and direction as that sub-section authorises the High Court to make by its order on an appeal from an order of a District Court.

(3) An order of a District Court on an appeal from an order of an inferior Court under the last foregoing sub-section shall, subject to the provisions of Chapters XLVI. and XLVII. of the Code of Civil Procedure as applied by section 647 of that Code, be final.

(4) The District Court may withdraw any proceedings under this Act from an inferior Court and may either itself dispose of them or transfer them to another such Court established within the local limits of the jurisdiction of the District Court and having authority to dispose of the proceedings.

(5) A notification under sub-section (1) may specify any inferior Court specially or any class of such Courts in any local area.

(6) Any Civil Court which for any of the purposes of any enactment is subordinate to, or subject to the control of, a District Court shall for the purposes of this section be deemed to be a Court inferior in grade to a District Court.

27. (1) When a certificate under this Act has been superseded or is invalid from any of the causes mentioned in section 22, the holder thereof shall, on the requisition of the Court which granted it, deliver it up to that Court.

(2) If he wilfully and without reasonable cause omits so to deliver it up, he shall be punished with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to three months, or with both.

28. Notwithstanding anything in the Regulation of the Bombay Code No. VIII. of 1827, the provisions of section 3. section 6, sub-section (1), clause (f), and sections 8, 9, 10, 11, 12, 14, 16, 18, 19, 25, 26 and 27 of this Act with respect to certificates under this Act and applications therefor, and of section 98 of the Probate and Administration Act, 1881, with respect to the exhibition of inventories and accounts by executors and administrators, shall, so far as they can be made applicable, apply, respectively, to certificates granted under that Regulation, and applications made for certificates thereunder, after the commencement of this Act, and to the exhibition of inventories and accounts by the holders of such certificates so granted.

THE FIRST SCHEDULE.

ENACTMENTS REPEALED(a).

(See section 2.)

Number and year.	Extent of repeal.	Number and year.	Extent of repeal.
<i>Acts of the Governor General in Council.</i>			
XXVII. of 1860...	So much as has not been repealed.	XIII. of 1879 ...	Section 25, clause (3), relating to applications for certificates under Act XXVII. of 1860.
XIV. of 1869 ...	In section 16, from and inclusive of the words and figures "Bombay Regulation VIII. of 1827" down to and inclusive of the words "representatives of deceased persons) and".	V. of 1881 ...	Sections 151 and 153.
XV. of 1874 ...	So much as relates to Act XXVII. of 1860.	XVIII. of 1884 ...	Section 29, sub-section (1), clause (a).
		XII. of 1887 ...	Section 23, sub-section (2), clause (c).

Sch. 1 (a).—The subjects or titles and a Bengal Act are omitted.

THE SECOND SCHEDULE.

FORMS OF CERTIFICATE AND EXTENDED CERTIFICATE.

(See section 11.)

In the Court of

To A. B.

Whereas you applied on the _____ day of _____ for a certificate under the Succession Certificate Act, 1889, in respect of the following debts and securities, namely:—

Debts.

Serial number.	Name of debtor.	Amount of debt, including interest, on date of application for certificate.	Description and date of instrument, if any, by which the debt is secured.

Securities.

Serial number.	DESCRIPTION.			Market-value of security on date of application for certificate.
	Distinguishing number or letter of security.	Name, title or class of security.	Amount or par value of security.	

This certificate is accordingly granted to you and empowers you to collect those debts [and] [to receive] [interest] [dividends] [on] [to negotiate] [to transfer] [those securities].

Dated this _____ day of _____

District Judge.
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In the Court of

On the application of *A. B.* made to me on the _____ day
of _____, I hereby extend this certificate to the following debts and
securities, namely:—

Debts.

Serial number.	Name of debtor.	Amount of debt, including interest, on date of appli- cation for extension.	Description and date of instrument, if any, by which the debt is secured.

Securities.

Serial number.	DESCRIPTION.			Market-value of security on date of application for extension.
	Distinguishing number or letter of security.	Name, title or class of security.	Amount or par value of security.	

This extension empowers *A. B.* to collect those debts [and] [to receive] [interest]
[dividends] [on] [to negotiate] [to transfer] [those securities.]

Dated this _____ day of _____

District Judge.

Act No. VIII. of 1889.

RECEIVED THE ASSENT OF THE GOVERNOR GENERAL ON THE
22ND MARCH, 1889.

*An Act to amend the Sea Customs Act, 1878, and
the Indian Tariff Act, 1882.*

WHEREAS it is expedient to amend the Sea Customs Act, 1878, and the
Indian Tariff Act, 1882; It is hereby enacted as follows:—

Sea Customs Act, 1878.

Amendment of section 37, Act VIII., 1878. 1. For the provisos to section 37 of the Sea Customs Act, 1878, the following proviso shall be substituted, namely :—

“ Provided that, if such goods are warehoused under this Act, the rate and valuation (if any) applicable thereto shall be the rate and valuation in force on the date on which application is made to clear such goods from the warehouse for home-consumption.”

Amendment of section 115, Act VIII., 1878. 2. In section 115 of the same Act, for the words and figures “ the second proviso to section 37 ” the words “ such alteration ” shall be substituted.

Indian Tariff Act, 1882.

Amendment of section 1, Act XI., 1882. 3. In section 1 of the Indian Tariff Act, 1882, the words “ and Perim ” shall be inserted after the word “ Aden ”.

Addition of new section to Act XI., 1882. 4. The following section shall be added to the same Act, namely :—

“ 10. In the event of any duty of customs or excise on any article being imposed, increased, decreased or remitted after the making of any contract for the sale of such article without stipulation as to the payment of duty where duty was not chargeable at the time of the making of the contract, or for the sale of such article duty-paid where duty was chargeable at that time,—

When contracts have been entered into, amount of increased or decreased duty to be added or deducted.

(a) if such imposition or increase so takes effect that the duty or increased duty, as the case may be, is paid, the seller may add so much to the contract-price as will be equivalent to the duty or increase of duty, and he shall be entitled to be paid and to sue for and recover such addition, and

(b) if such decrease or remission so takes effect that the decreased duty only or no duty, as the case may be, is paid, the purchaser may deduct so much from the contract-price as will be equivalent to the decrease of duty or remitted duty, and he shall not be liable to pay or be sued for or in respect of such deduction.”

Amendment of the Second Schedule to Act XI., 1882.

5. In No. 1 of the Second Schedule to the same Act, for the following, namely :—

No.	Names of Articles.	Per	Tariff valuation.	Rate of duty.
*	*	*	*	*
			Re. a.	
	Gunpowder, common ...	lb.	0 5	} 10 per cent.
	Gunpowder, sporting ...	lb.	1 0	
	All other sorts ...	...	<i>Ad valorem.</i>	

there shall be substituted the following, namely :—

No.	Names of Articles.	Per	Tariff valuation.	Rate of duty.
*	*	*	*	*
			Re. a.	
	Gunpowder, common... ...	lb.	0 5	} 10 per cent.
	Gunpowder, sporting ...	lb.	1 0	
	All other sorts of Arms, Ammunition and Military Stores.	...	<i>Ad valorem.</i>	10 per cent.

Explanation.—The expression “Arms, Ammunition and Military Stores,” as used in the foregoing part of this Schedule, includes, in addition to any article specifically mentioned in that part,—

- (a) all articles which are either “arms,” or “ammunition” within the meaning of the Indian Arms Act, 1878, and
- (b) any articles which the Governor General in Council may from time to time, by notification in the Gazette of India, declare to be “military stores” for the purposes of this Act.

Act No. IX. of 1889. (*N. W. Provinces and Oudh.*)

$\frac{1}{2}/91;$
See $\frac{1}{2}/96;$ & $\frac{11}{101}.$ & $\frac{1}{2}/03.$

Act No. X. of 1889.

RECEIVED THE ASSENT OF THE GOVERNOR GENERAL ON THE
29TH MARCH, 1889.

THE INDIAN PORTS ACT, 1889.

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57. Ascertainment and recovery of expenses and damages payable under this Act.
58. Costs of distress.
59. Magistrate to determine the amount to be levied in case of dispute.
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CHAPTER VIII.

SUPPLEMENTAL PROVISIONS.

62. Hoisting unlawful colours in port.
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70. Publication of orders of Local Government.

THE FIRST SCHEDULE.—PORTS, VESSELS
CHARGEABLE, RATE OF PORT-DUES
AND FREQUENCY OF PAYMENT.

THE SECOND SCHEDULE.—ENACTMENTS
REPEALED.

An Act to consolidate and amend the law relating to Ports and Port-charges.

WHEREAS it is expedient to consolidate and amend the law relating to ports and port-charges; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Title, commencement and extent.

1. (1) This Act may be called the Indian Ports Act, 1889; and

(2) It shall come into force on the first day of April, 1889.

(3) It shall extend, save as otherwise appears from its subject or context,—

(a) to the ports mentioned in the first schedule, and to such parts of the navigable rivers and channels leading to such ports respectively as have been declared to be subject to Act XXII. of 1855 (*for the regulation of Ports and Port-dues*) or to the Indian Ports Act, 1875;

(b) to the other ports or parts of navigable rivers or channels to which the Local Government, in exercise of the power hereinafter conferred, extends this Act;

(4) But nothing in this Act shall—

(i) apply to any vessel belonging to, or in the service of, Her Majesty or the Government of India, or to any vessel of war belonging to any Foreign Prince or State, or

(ii) deprive any person of any right of property or other private right, except as hereinafter expressly provided, or

(iii) affect any law or rule relating to the customs or any order or direction lawfully made or given pursuant thereto:

(5) And nothing in section 31 or section 32 shall apply to any port, river or channel to which the section has not been specially extended by the Local Government.

2. (1) The enactments mentioned in the second schedule are hereby repealed to the extent specified in the third column of that schedule.

Repeal.

(2) All declarations, appointments, requisitions, orders and rules made, authorizations, directions and permissions given, prohibitions issued and notifications published under any of those enactments or under any enactment repealed by any of them, shall, if in force at the commencement of this Act, be deemed, so far as may be, to have been made, given, issued and published under this Act: and

(3) Any enactment or document referring to any such repealed enactment shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

(1) “port” includes also any part of a river or channel in which this Act is for the time being in force :

(2) “port officer” is synonymous with master-attendant :

(3) “vessel” includes anything made for the conveyance by water of human beings or of property :

(4) “master,” when used in relation to any vessel, means, subject to the provisions of any other enactment for the time being in force, any person (except a pilot or harbour-master) having for the time being the charge or control of the vessel :

(5) “pilot” means a person for the time being authorized by the Local Government to pilot vessels :

(6) “ton” means a ton as determined or determinable by the rules for the time being in force for regulating the measurement of the net tonnage of British ships : and

(7) “Magistrate” means a person exercising powers under the Code of Criminal Procedure, 1882, not less than those of a Magistrate of the second class, and includes, in the towns of Calcutta, Madras and Bombay, a Presidency Magistrate.

CHAPTER II.

POWERS OF THE LOCAL GOVERNMENT.

Power to extend or withdraw the Act or certain portions thereof.

4. (1) With the previous sanction of the Governor General in Council, the Local Government may, by notification in the official Gazette,—

(a) extend this Act to any port in which this Act is not in force or to any part of any navigable river or channel which leads to a port and in which this Act is not in force ;

(b) specially extend the provisions of section 31 or section 32 to any port to which they have not been so extended ;²

(c) withdraw this Act, or section 31 or section 32 from any port or any part thereof in which it is for the time being in force.

(2) A notification under clause (a) or clause (b) of sub-section (1) shall define the limits of the area to which it refers.³

S. 4 (1) (a)—The Act is extended to the ports of Belikeri and Manki. See G. G. 1889, p. 1071.

(3) Limits defined under sub-section (2) may include any piers, jetties, landing-places, wharves, quays, docks and other works made on behalf of the public for convenience of traffic, for safety of vessels, or for the improvement, maintenance or good government of the port and its approaches, whether within or without high-water-mark, and, subject to any rights of private property therein, any portion of the shore or bank within fifty yards of high-water-mark.

(4) In sub-section (3) the expression "high-water-mark" means the highest point reached by ordinary spring-tides at any season of the year.

5. (1) The Local Government may, with the previous sanction of the Governor General in Council and subject to any rights of private property, alter the limits of any port in which this Act is in force.

(2) When the Local Government alters the limits of a port under sub-section (1), it shall declare or describe, by notification in the official Gazette, and by such other means, if any, as it thinks fit, the precise extent of such limits.

6. (1) The Local Government may, in addition to any rules which it may make under any other enactment for the time being in force, make such rules, consistent with this Act, as it thinks necessary for any of the following purposes, namely:—

- (a) for regulating the time at which, and the manner in which, vessels are to enter or leave any port subject to this Act;
- (b) for regulating the berths, stations and anchorages to be occupied by vessels in any such port;
- (c) for striking the yards and top-masts, and for rigging-in the booms and yards, of vessels in any such port, and for swinging or taking-in davits, boats and other things projecting from such vessels;
- (d) for the removal or proper hanging or placing of anchors, spars and other things being in or attached to vessels in any such port;
- (e) for regulating vessels whilst taking-in or discharging passengers, ballast or cargo, or any particular kind of cargo, in any such port, and the stations to be occupied by vessels whilst so engaged;
- (f) for keeping free passages of such width as may be deemed necessary within any such port, and along or near to the piers, jetties, landing-places, wharves, quays, docks, moorings and other works in or adjoining to the same, and for marking out the spaces so to be kept free;

- (g) for regulating the anchoring, fastening, mooring, and unmooring of vessels in any such port;
- (h) for regulating the moving and warping of all vessels within any such port and the use of warps therein;
- (i) for regulating the use of the mooring buoys, chains and other moorings in any such port;
- (j) for fixing the rates to be paid for the use of such moorings when belonging to the Government, or of any boat, hawser or other thing belonging to the Government;
- (k) for licensing and regulating catamarans plying for hire, and flats and cargo, passenger and other boats plying, whether for hire or not and whether regularly or only occasionally, in, or partly within and partly without, any such port, and for determining the quantity of cargo or number of passengers to be carried by any such vessel;
- (l) for regulating the use of fires and lights within any such port;
- (m) for enforcing and regulating the use of signals or signal-lights by vessels by day or by night in any such port;
- (n) for regulating the number of the crew which must be on board any vessel afloat within the limits of any such port;
- (o) for regulating the employment of persons engaged in cleaning or painting vessels, or in working in the bilges, boilers or double bottoms of vessels, in any such port; ^{and}
- (p) for regulating the action to be taken by a master where there is disease or sickness, or a dead body, on board his vessel in any such port, ^{and}

(2) The power to make rules under sub-section (1) is subject to the condition of the rules being made after previous publication :

Provided that nothing in this sub-section shall be construed to affect the validity of any rule in force immediately before the commencement of this Act and continued by section 2, sub-section (2).

4, (3) & (4) sub. ss.

CHAPTER III.

PORT-OFFICIALS AND THEIR POWERS AND DUTIES.

7. (1) The Local Government shall appoint some officer or body of persons to be conservator of every port subject to this Act, and may suspend or remove such officer or body.

Appointment of conservator.

S. 6 (p)—For rules made under this clause, see G. G. 1889, p. 800.

S. 6 (2)—See S. 6 of Act I. of 1887.

S. 7—The Trustees of the port of Aden are appointed conservators of that port. See G. G. 1889, p. 626. *Adm. List of Encl. Rules & Orders (1896) p. 1, 1889.*

- (2) Subject to any direction by the Local Government to the contrary,—
 (a) in ports where there is a port-officer, the port-officer shall be the conservator;
 (b) in ports where there is no port-officer, but where there is a harbour-master, the harbour-master shall be the conservator.
 (3) Where the harbour-master is not conservator, the harbour-master and his assistants shall be subordinate to, and subject to the control of, the conservator.

(4) The conservator shall be subject to the control of the Local Government, or of any intermediate authority which that Government may appoint.

8. (1) The conservator of any port subject to this Act may, with respect to any vessel within the port, give directions for carrying into effect any rule for the time being in force therein under section 6.

*1889 Act of Local Rules
 of Rules Vol. I. (1896)
 Sec. 111*

Power of conservator to give and enforce directions for certain specified purposes.

(2) If any person wilfully and without lawful excuse refuses or neglects to obey any lawful direction of the conservator, after notice thereof has been given to him, he shall, for every such offence, be punished with fine which may extend to one hundred rupees, and with further fine which may extend to one hundred rupees for every day on which, after such notice as aforesaid, he wilfully and without lawful excuse continues to disobey the direction.

(3) In case of such refusal or neglect, the conservator may do, or cause to be done, all acts necessary for the purpose of carrying the direction into execution, and may hire and employ proper persons for that purpose, and all reasonable expenses incurred in doing such acts shall be recoverable by him from the person so refusing or neglecting to obey the direction.

9. The conservator of any such port may, in case of urgent necessity, cut, or cause to be cut, any warp, rope, cable or hawser endangering the safety of any vessel in the port or at or near to the entrance thereof.

Power to cut warps and ropes.

10. (1) The conservator may remove, or cause to be removed, any timber, raft or other thing, floating or being in any part of any such port, which in his opinion obstructs or impedes the free navigation thereof, or the lawful use of any pier, jetty, landing-place, wharf, quay, dock, mooring or other work on any part of the shore or bank which has been declared to be within the limits of the port and is not private property.

Removal of obstructions within limits of port.

(2) The owner of any such timber, raft or other thing shall be liable to pay the reasonable expenses of the removal thereof, and if such owner or any other person has without lawful excuse caused any such obstruction or impediment, or causes any public nuisance affecting or likely to affect such free navigation or lawful use, he shall also be punished with fine which may extend to one hundred rupees.

(3) The conservator or any Magistrate having jurisdiction over the offence may cause any such nuisance to be abated.

11. If the owner of any such timber, raft or other thing, or the person who has caused any such obstruction, impediment or public nuisance as is mentioned in the last foregoing section neglects to pay the reasonable expenses incurred in the removal thereof, within one week after demand, or within fourteen days after such removal has been notified in the official Gazette or in such other manner as the Local Government by general or special order directs, the conservator may cause such timber, raft or other thing, or the materials of any public nuisance so removed, or so much thereof as may be necessary, to be sold by public auction ;

and may retain all the expenses of such removal and sale out of the proceeds of the sale, and shall pay the surplus of such proceeds, or deliver so much of the thing or materials as may remain unsold, to the person entitled to receive the same ;

and, if no such person appears, shall cause the same to be kept and deposited in such manner as the Local Government directs ;

and may, if necessary, from time to time, realize the expenses of keeping the same, together with the expenses of sale, by a further sale of so much of the thing or materials as may remain unsold.

12. (1) If any obstruction or impediment to the navigation of any port subject to this Act has been lawfully made, or has become lawful by reason of the long continuance of such obstruction or impediment, or otherwise, the conservator shall report the same for the information of the Local Government, and shall, with the sanction of that Government, cause the same to be removed or altered, making reasonable compensation to the person suffering damage by such removal or alteration.

(2) Any dispute arising concerning such compensation shall be determined according to the law relating to like disputes in the case of land required for public purposes.

13. (1) If any vessel hooks or gets foul of any of the buoys or moorings laid down by or by the authority of the Local Government in any such port, the master of such vessel shall not, nor shall any other person, except in case of emergency, lift the buoy or mooring for the purpose of unhooking or getting clear from the same without the assistance of the conservator ;

and the conservator, immediately on receiving notice of such accident, shall assist and superintend the clearing of such vessel ;

and the master of such vessel shall, upon demand, pay such reasonable expenses as may be incurred in clearing the same.

(2) Any master or other person offending against the provisions of this section shall, for every such offence, be punished with fine which may extend to one hundred rupees.

14. (1) If any vessel is wrecked, stranded or sunk in any such port, so as to impede, or be likely to impede, the navigation thereof, the conservator may cause the vessel to be raised, removed or destroyed.

Raising or removal of wreck so as to impede, or be likely to impede, the navigation thereof, the conservator may cause the vessel to be raised, removed or destroyed.

impeding navigation within limits of port.

(2) If any property recovered by a conservator acting under sub-section (1) is unclaimed, or the person claiming it fails to pay the reasonable expenses incurred by the conservator under that sub-section and a further sum of twenty per cent. of the amount of such expenses, the conservator may sell the property by public auction, if the property is of a perishable nature, forthwith, and, if it is not of a perishable nature, at any time not less than six months after the recovery thereof.

(3) The expenses and further sum aforesaid shall be payable to the conservator out of the sale-proceeds of the property, and the balance shall be paid to the person entitled to the property recovered, or, if no such person appears and claims the balance, shall be held in deposit for payment, without interest, to any person thereafter establishing his right thereto:

Provided that the person makes his claim within three years from the date of the sale.

15. (1) The conservator or any of his assistants may, whenever he suspects that any offence against this Act has been, or is about to be, committed, or whenever it is necessary for him so to do in the performance of any duty imposed upon him by this Act,

Power to board vessels and enter buildings.

and the person appointed under this Act to receive any port-dues, fees or other charges payable in respect of any vessel, may, whenever it is necessary for him so to do in the performance of any duty imposed upon him by this Act,

either alone or with any other person, board any vessel, or enter any building or place, within the limits of any port subject to this Act.

(2) If the master of the vessel, or any person in possession or occupation of the building or place, without lawful excuse, refuses to allow any such person as is mentioned in sub-section (1) to board or enter such vessel, building or place in the performance of any duty imposed upon him by this Act, he shall for every such offence be punished with fine which may extend to two hundred rupees.

16. (1) For the purpose of preventing or extinguishing fire in any port subject to this Act, the conservator or port-officer may require the master of any vessel within the port to place at his disposal such number as he requires, not exceeding three-fourths, of the crew then under the orders of such master.

(2) Any master refusing or neglecting to comply with such requisition shall be punished with fine which may extend to five hundred rupees, and any seaman then under his orders who, after being directed by the master to obey the orders of the conservator or port-officer for the purpose aforesaid, refuses to obey such orders shall be punished with fine which may extend to twenty-five rupees.

17. (1) The Local Government may appoint at any port subject to this Act an officer to be called the health-officer, and may suspend or remove from office any officer so appointed.

(2) A health-officer shall, subject to the control of the Local Government, have the following powers within the limits of the port for which he is appointed, namely :—

- (a) with respect to any vessel, the powers conferred on a shipping-master by Act I. of 1859, section 71 ;
- (b) power to enter on board any vessel and medically examine all or any of the seamen or apprentices on board the vessel ;
- (c) power to require and enforce the production of the log-book and any other books, papers or documents which he thinks necessary for the purpose of enquiring into the health and medical condition of the persons on board the vessel ;
- (d) power to call before him and question for any such purpose all or any of those persons and to require true answers to any questions which he thinks fit to ask ;
- (e) power to require any person so questioned to make and subscribe a declaration of the truth of the statements made by him.

18. The Government shall not be responsible for any act or default of any conservator, port-officer or harbour-master of any port subject to this Act, or of any deputy or assistant of any of the authorities aforesaid, or of any person acting under the control or direction of any such authority, deputy or assistant, or for any act or default of any pilot, or for any damage sustained by any vessel in consequence of any defect in any of the moorings, hawsers or other things belonging to the Government which may be used by the vessel:

Provided that nothing in this section shall protect the Secretary of State for India in Council from a suit in respect of any act done by or under the express order or sanction of the Government.

CHAPTER IV.

RULES FOR THE SAFETY OF SHIPPING AND THE CONSERVATION OF PORTS.

General Rules.

19. (1) No person shall, without lawful excuse, lift, injure, loosen or set adrift any buoy, beacon or mooring fixed or laid down by, or by the authority of, the Local Government in any port subject to this Act.

Injuring buoys, beacons and moorings.

(2) If any person offends against the provisions of this section, he shall for every such offence be liable, in addition to the payment of the amount of damage done, to fine which may extend to two thousand rupees, or to imprisonment for a term which may extend to two years.

20. If any person wilfully and without lawful excuse loosens or removes from her moorings any vessel within any such port without leave or authority from the owner or master of the vessel, he shall, for every such offence, be punished with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to six months.

Wilfully loosening vessel from moorings.

21. (1) No ballast or rubbish, and no other thing likely to form a bank or shoal or to be detrimental to navigation, shall, without lawful excuse, be cast or thrown into any such port, or into or upon any place on shore from which the same is liable to be washed into any such port, either by ordinary or high tides, or by storms or land-floods.

Improperly discharging ballast.

(2) Any person who by himself or another so casts or throws any ballast or rubbish or any such other thing, and the master of any vessel from which the same is so cast or thrown, shall be punished with fine which may extend to five hundred rupees, and shall pay any reasonable expenses which may be incurred in removing the same.

(3) If, after receiving notice from the conservator of the port to desist from so casting or throwing any ballast or rubbish or such other thing, any master continues so to cast or throw it, he shall also be liable to simple imprisonment for a term which may extend to two months.

(4) Nothing in this section applies to any case in which the ballast or rubbish or such other thing is cast or thrown into any such port with the consent in writing of the conservator, or within any limits within which such act may be authorized by the Local Government.

22. If any person graves, breams or smokes any vessel in any such port, contrary to the directions of the conservator, or at any time or within any limits at or within which such act is prohibited by the Local Government, he and the master of the vessel shall for every such offence be punished with fine which may extend to five hundred rupees each.

Graving vessel within prohibited limits.

23. If any person boils or heats any pitch, tar, resin, dammer, turpentine, oil or other such combustible matter on board any vessel within any such port, or at any place within its limits where such act is prohibited by the Local Government, or contrary to the directions of the conservator, he and the master of the vessel shall for every such offence be punished with fine which may extend to two hundred rupees each.

Boiling pitch on board vessel within prohibited limits.

24. If any person, by an unprotected artificial light, draws off spirits on board any vessel within any port subject to this Act, he and the master of the vessel shall for every such offence be punished with fine which may extend to two hundred rupees each.

Drawing spirits by unprotected artificial light.

25. (1) Every master of a vessel in any port subject to this Act shall, when required so to do by the conservator, permit warps or hawsers to be made fast to the vessel for the purpose of warping any other vessel in the port, and shall not allow any such warp or hawser to be let go until required so to do.

Warping.

(2) A master offending against sub-section (1) shall be punished for every such offence with fine which may extend to two hundred rupees.

26. (1) A master of a vessel shall not cause or suffer any warp or hawser attached to his vessel to be left out in any port subject to this Act after sunset in such a manner as to endanger the safety of any other vessel navigating in the port.

Leaving out warp or hawser after sunset.

(2) A master offending against sub-section (1) shall be punished for every such offence with fine which may extend to two hundred rupees.

27. If any person, without lawful excuse, discharges any fire-arm in any port subject to this Act, or on or from any pier, landing-place, wharf or quay thereof, except a gun loaded only with gunpowder for the purpose of making a signal of distress, or for such other purpose as may be allowed by the Local Government, he shall for every such offence be punished with fine which may extend to fifty rupees.

Discharge of fire-arms in port.

28. If the master of any vessel in which fire takes place while lying in any such port wilfully omits to take order to extinguish the fire or obstructs the conservator or the port-officer, or any person acting

Penalty on master omitting to take order to extinguish fire.

under the authority of the conservator or port-officer, in extinguishing or attempting to extinguish the fire, he shall be punished with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

29. (1) No person, without the permission of the conservator, shall in any port subject to this Act creep or sweep for anchors, cables or other stores lost or supposed to be lost therein.

Unauthorized person not to search for lost stores.

(2) If any person offends against the provisions of sub-section (1), he shall be punished with fine which may extend to one hundred rupees.

30. (1) No person, without the permission of the conservator, shall in any port subject to this Act remove or carry away any rock, stones, shingle, gravel, sand or soil or any artificial protection from any part of the bank or shore of the port;

Removing stones or injuring shores of port prohibited.

and no person shall sink or bury in any part of such bank or shore, whether the same is public or private property, any mooring-post, anchor or any other thing, or do any other thing which is likely to injure or to be used so as to injure such bank or shore, except with the permission of the conservator, and with the aid or under the inspection of such person, if any, as the conservator may appoint to take part in, or overlook the performance of, such work.

(2) If any person offends against sub-section (1), he shall for every such offence be punished with fine which may extend to one hundred rupees and shall pay any reasonable expenses which may be incurred in repairing any injury done by him to the bank or shore.

Special Rules.

31. (1) No vessel of the measurement of two hundred tons or upwards shall enter, leave or be moved in any port to which this section has been specially extended without having a pilot, harbour-master or assistant of the port-officer or harbour-master on board;

Moving of vessels without pilot or permission of harbour-master.

and no vessel of any measurement less than two hundred tons and exceeding one hundred tons shall enter, leave or be moved in any such port without having a pilot, harbour-master or assistant of the port-officer or harbour-master on board, unless authority in writing so to do has been obtained from the conservator or some officer empowered by him to give such authority.

(2) If any vessel, except in case of urgent necessity, enters, leaves or is moved in the port contrary to the provisions of sub-section (1), the master of the vessel shall for every such offence be punished with fine which may

extend to two hundred rupees, unless upon application to the proper officer the master was unable to procure a pilot, harbour-master or assistant of the port-officer or harbour-master to go on board the vessel.

(3) Nothing in sub-sections (1) and (2) shall apply to Native vessels when they are entering, leaving or being moved in the port of Bombay.

(4) If any question arises as to whether any vessel is a Native vessel within the meaning of this section, the decision thereon of such authority as the Governor of Bombay in Council may appoint in this behalf shall be conclusive.

32. (1) Every vessel exceeding the measurement of two hundred tons and lying in any port to which this section has been specially extended shall be provided with a proper force-pump and hose and appurtenances, for the purpose of extinguishing any fire which may occur on board.

(2) The master of such a vessel who, having been required by the conservator to comply with the provisions of sub-section (1), neglects or refuses, without lawful excuse, so to do for the space of seven days after such requisition, shall be punished with fine which may extend to five hundred rupees.

CHAPTER V.

PORT-DUES, FEES AND OTHER CHARGES.

33. (1) In each of the ports mentioned in the first schedule such port-due, not exceeding the amount specified for the port in the third column of the schedule,

Levy of port-dues.

as the Local Government directs, shall be levied on vessels entering the port and described in the second column of the schedule, but not oftener than the time fixed for the port in the fourth column of the schedule.

(2) Whenever the Local Government, with the previous sanction of the Governor General in Council, declares any other port to be subject to this Act, it may, with the like sanction, by the same or any subsequent declaration, further declare,—

(a) in the terms of any of the entries in the second column of the first schedule, the vessels which are to be chargeable with port-dues on entering the port,

(b) the highest rates at which such dues may be levied in respect of vessels chargeable therewith, and

(c) the times at which such vessels are to be so chargeable.

(3) All port-dues now leviable in any port shall continue to be so leviable until it is otherwise declared in exercise of the powers conferred by this section.

(4) An order increasing or imposing port-dues under this section shall not take effect till the expiration of sixty days from the day on which the order was published in the local official Gazette.

34. The Local Government may exempt the vessels entering a port subject to this Act from payment of port-dues and cancel the exemption, or may vary the rates at which port-dues are to be levied in the port, in such manner as, having regard to the receipts and charges on account of the port, it thinks expedient, by reducing or raising the dues, or any of them :

Provided that the rates shall not in any case exceed the amount authorized to be taken by or under this Act.

35. (1) Within any port subject to this Act, fees may be charged for pilotage, hauling, mooring, re-mooring, hooking, measuring and other services rendered to vessels, at such rates as the Local Government may direct :—

Fees for pilotage and certain other services.

Provided that, in the case of fees for pilotage, the previous sanction of the Governor General in Council has been obtained.

(2) The fees now chargeable for such services shall continue to be chargeable unless and until they are altered in exercise of the power conferred by sub-section (1).

36. (1) The Local Government shall appoint some officer or body of persons at every port at which any dues, fees or other charges are authorised to be taken by or under this Act to receive the same and, subject to the control of the Local Government, to expend the receipts on any of the objects authorized by this Act.

(2) Such officer or body shall keep for the port a distinct account, to be called the port fund account, showing, in such detail as the Local Government prescribes, the receipts and expenditure of the port, and shall publish annually as soon after the first day of April as may be practicable an abstract, in such form as that Government prescribes, of the account for the past financial year.

(3) If, for any of the purposes of this Act, an advance of money has been or shall be made by the Government on account of any port subject to this Act, simple interest upon that advance, or upon so much of it as remains or shall remain unpaid, at such rate as the Governor General in Council may determine, shall be charged in the port fund account of the port.

(4) All moneys received under this Act at or on account of any port subject to this Act, excluding receipts on account of pilotage but including—

- (a) fines,
- (b) proceeds of waifs, and
- (c) any balance of the proceeds of a sale under section 14 where no right to the balance has been established on a claim made within three years from the date of the sale,

shall be credited in the port fund account of the port.

(5) All expenses incurred for the sake of any such port, excluding expenses on account of pilotage but including—

- (a) the pay and allowances of all persons upon the establishment of the port,
- (b) the cost of buoys, beacons, lights and all other works maintained chiefly for the benefit of vessels being in or entering or leaving the port or passing through the rivers or channels leading thereto,
- (c) pensions, allowances and gratuities of persons who have been employed in the port under this or any other enactment relating to ports and port-dues, or such portion of those pensions, allowances and gratuities as the Local Government may by rule determine,
- (d) with the previous sanction of the Local Government, contributions towards the support of public hospitals or dispensaries suitable for the reception or relief of seamen or otherwise towards the provision of sanitary superintendence and medical aid for the shipping in the port and for seamen, whether ashore or afloat, belonging to vessels in the port, and
- (e) with the like sanction, contributions towards sailors' homes, institutes, rest-houses and coffee-houses and for other purposes connected with the health, recreation and temporal well-being of sailors,

shall be charged to the port fund account of the port.

(6) Subject to the provisions of any local law as to the disposal of any balance from time to time standing to the credit of a port fund account, any such balance may be temporarily invested in such manner as the Local Government may direct.

37. (1) The Local Government may direct that for the purposes of the last foregoing section any number of ports

Grouping of ports.

shall be regarded as constituting a single port, and thereupon all moneys to be credited to the port fund account under sub-section (4) of that section shall form a common port fund account which shall be available for the payment of all expenses incurred for the sake of any of the ports:

*From Dis. of Local Rules & Orders
Vol. I (1896) p. 1577v*

Provided, with respect to the ports of Calcutta, Madras, Bombay, Rangoon, Karáchi, Chittagong and Aden, that none of those ports may be grouped with any other port, and that the port fund account of each of those ports shall be kept separate from the port fund account of any other port.

(2) Where ports are grouped by or under this Act, the following consequences ensue, namely :—

(a) the Local Government, in the exercise of its control over expenditure debitable to the common port fund account of the group, may, with the previous sanction of the Governor General in Council, make rules with respect to the expenditure of the fund for the sake of the several ports of the group on the objects authorized by this Act, and shall cause effect to be given to any directions which the Governor General in Council may deem it necessary to issue with respect to such expenditure; and

(b) the Local Government may exercise its authority under section 34 as regards all the ports in the group collectively or as regards any of them separately.

38. The person to whom any dues, fees or other charges authorized to

Receipts for port-charges. be taken by or under this Act are paid shall grant to the person paying the same a proper voucher in writing under his hand, describing the name of his office, the port or place at which the dues, fees or other charges are paid, and the name, tonnage and other proper description of the vessel in respect of which the payment is made.

39. (1) Within twenty-four hours after the arrival within the limits of any port subject to this Act of any vessel Master to report arrival. liable to the payment of port-dues under this Act the master of the vessel shall report her arrival to the conservator of the port.

(2) A master failing without lawful excuse to make such report within the time aforesaid shall for every such offence be punished with fine which may extend to one hundred rupees.

(3) Nothing in this section applies to tug-steamers, ferry-steamers or river-steamers plying to and from any of the ports subject to this Act or to ballam boats plying to and from the port of Chittagong.

40. If any vessel liable to the payment of port-dues is in any such port without proper marks on the stem and stern posts thereof for denoting her draught, the conservator may cause the same to be ascertained by means of the operation of hooking, and the master of the vessel shall be liable to pay the expenses of the operation.

Conservator may in certain cases ascertain draught and charge expense to master.

Ascertainment of tonnage of
vessel liable to port-dues.

41. In order to ascertain the tonnage of
any vessel liable to pay port-dues the following
rules shall be observed:—

(1) (a) If the vessel is a British registered vessel or a vessel registered under Act X. of 1841 or Act XI. of 1850 or under any other law for the time being in force for the registration of vessels in British India, the conservator may require the owner or master of the vessel or any person having possession of her register to produce the register for inspection.

(b) If the owner or master or such person neglects or refuses to produce the register or otherwise to satisfy the conservator as to what is the true tonnage of the vessel in respect of which the port-dues are payable, he shall be punished with fine which may extend to one hundred rupees, and the conservator may cause the vessel to be measured, and the tonnage thereof to be ascertained, according to the mode of measurement prescribed by the rules for the time being in force for regulating the measurement of British vessels, and in such case the owner or master of the vessel shall also be liable to pay the expenses of the measurement.

(2) If the vessel is not a British registered vessel or a vessel registered under Act X. of 1841 or Act XI. of 1850, or under any other law for the time being in force for the registration of vessels in British India, and the owner or master thereof fails to satisfy the conservator as to what is her true tonnage according to the mode of measurement prescribed by the rules for the time being in force for regulating the measurement of British vessels, the conservator shall cause the vessel to be measured and the tonnage thereof to be ascertained, according to the mode aforesaid, and in such case the owner or master of the vessel shall be liable to pay the expenses of the measurement.

(3) If the vessel is a vessel of which the tonnage cannot be ascertained according to the mode of measurement mentioned in clauses (1) and (2), the tonnage of the vessel shall be determined by the conservator on such an estimate as may seem to him to be just.

42. If the master of any vessel in respect of which any port-dues, fees or other charges are payable under this Act

Distrain and sale on refusal
to pay port-charges.

refuses or neglects to pay the same on demand,
the authority appointed to receive such port-dues, fees or other charges may distrain or arrest the vessel, and the tackle, apparel and furniture belonging thereto, or any part thereof, and detain the same until the amount due is paid;

and in case any part of the port-dues, fees or other charges, or of the costs of the distress or arrest or of the keeping of the vessel or other thing distrained or arrested, remains unpaid for the space of five days next after

any such distress or arrest, may cause the vessel or other thing distrained or arrested to be sold, and with the proceeds of such sale may satisfy the port-dues, fees or other charges and the costs, including the costs of sale, remaining unpaid, and shall render the surplus, if any, to the master of the vessel upon demand.

43. The officer of Government whose duty it is to grant a port-clearance for any vessel shall not grant such clearance—

- (a) until her owner or master, or some other person, has paid or secured to the satisfaction of such officer the amount of all port-dues, fees and other charges, and of all fines, penalties and expenses to which the vessel or her owner or master is liable under this Act;
- (b) until all expenses, which by the Merchant Shipping Act, 1854, section 228, are to be borne by her owner, incurred since her arrival in the port from which he seeks clearance, have been paid.

44. (1) If the master of any vessel in respect of which any such sum as is mentioned in the last foregoing section is payable causes her to leave any port without having paid the sum, the authority appointed to receive port-dues, fees and other charges at the port under this Act may require in writing the authority appointed to receive port-dues, fees and other charges under this Act at any other port in British India to which she may proceed, or in which she may be, to levy the sum.

(2) The authority to whom the requisition is directed shall proceed to levy such sum in the manner prescribed in section 42, and a certificate purporting to be made by the authority appointed to receive port-dues, fees and other charges at the port where such sum as is mentioned in the last foregoing section became payable, stating the amount payable, shall be sufficient *prima facie* proof of such amount in any proceeding under section 42, and also (in case the amount payable is disputed) in any subsequent proceeding under section 59.

45. (1) If the master of a vessel evades the payment of any such sum as is mentioned in section 43, he shall be punished with fine which may extend to five times the amount of the sum.

(2) In any proceeding before a Magistrate on a prosecution under sub-section (1), any such certificate as is mentioned in section 44, sub-section

S. 43 (b).—S. 228 of 17 and 18 Vic. c. 104 relates to expenses of medical attendance and subsistence in case of illness, and of burial in case of death, of the Master or any Seaman or Apprentice. See also 57 & 58 Vic. c. 60. 7.209

(2), stating that the master has evaded such payment, shall be sufficient *prima facie* proof of the evasion, unless the master shows to the satisfaction of the Magistrate that the departure of the vessel without payment of the sum was caused by stress of weather, or that there was lawful or reasonable ground for such departure.

(3) Any Magistrate having jurisdiction under this Act in any port to which the vessel may proceed, or in which she may be found, shall be deemed to have jurisdiction in any proceeding under this section.

46. A vessel entering any port subject to this Act (other than a port in Burma) in ballast and not carrying passengers shall be charged with a port-due at a rate to

be determined by the Local Government and not exceeding three-fourths of the rate with which she would otherwise be chargeable.

47. When a vessel enters a port subject to this Act, but does not discharge or take in any cargo or passengers therein (with the exception of such unshipment and reshipment as may be necessary for

Port-due on vessels not discharging or taking in cargo.

purposes of repair), she shall be charged with a port-due at a rate to be determined by the Local Government and not exceeding half the rate with which she would otherwise be chargeable:

³Provided that a vessel entering any of the ports within the territories administered by the Governor of Fort St. George in Council and leaving the same within forty-eight hours, without discharging or taking in any passengers or cargo, shall not be charged with any port-due.

48. No port-due shall be chargeable in respect of any pleasure-yacht, nor shall any such due be chargeable in respect of any vessel which, having left any port, is compelled to re-enter it by stress of weather or in consequence of having sustained any damage.

49. (1) The Local Government may, by notification in the official Gazette, order that there shall be paid in respect of every vessel entering any port subject to this Act, within a reasonable distance of which there is a public hospital or dispensary suitable for the reception or relief of seamen requiring medical aid, such further port-dues not exceeding one anna per ton as the Local Government thinks fit.

(2) Such port-dues shall be called hospital port-dues, and the Local Government shall, in making any order under sub-section (1), have regard to any contributions made under section 36, sub-section (5), clause (d).

(3) An order imposing or increasing hospital port-dues shall not take effect till the expiration of sixty days from the day on which the order was published in the local official Gazette.

(4) Whenever the Local Government is satisfied that proper provision has been made by the owners or agents of any class of vessels for giving medical aid to the seamen employed on board such class of vessels, or that such provision is unnecessary in the case of any class of vessels, it may, by notification in the official Gazette, exempt such class of vessels from any payment under this section.

(5) The Local Government may, by notification in the official Gazette, cancel any order under sub-section (1) or withdraw any exemption under sub-section (4).

50. (1) Hospital port-dues shall be applied, as the Local Government may direct, to the support of any such hospital or dispensary as aforesaid, or otherwise for providing sanitary superintendence and medical aid for the shipping in the port in which they are levied and for the seamen belonging to the vessels therein, whether such seamen are ashore or afloat.

(2) The Local Government shall publish annually in the official Gazette, as soon after the first day of April as may be, an account, for the past financial year, of the sums received as hospital port-dues at each port where such dues are payable, and of the expenditure charged against those receipts.

(3) Such account shall be published as a supplement to the abstract published under section 36, sub-section (2).

CHAPTER VI.

HOISTING SIGNALS.

51. (1) The master of every inward or outward bound vessel, on arriving within signal-distance of any signal-station established within the limits of the river Hooghly, or within the limits of any part of a river or channel leading to a port subject to this Act, shall, on the requisition of the pilot in charge of the vessel, signify the name of the vessel by hoisting the number by which she is known, or by adopting such other means to this end as may be practicable and usual, and shall keep the signal flying until it is answered from the signal-station.

(2) If the master of a vessel arriving as aforesaid offends against sub-section (1), he shall be punished for every such offence with fine which may extend to one thousand rupees.

52. (1) Every pilot in charge of a vessel shall require the number of the vessel to be duly signalled as provided by the last foregoing section.
Pilot to require master to hoist number.

(2) When, on such requisition from the pilot, the master refuses to hoist the number of a vessel, or to adopt such other means of making her name known as may be practicable and usual, the pilot may, on arrival at the first place of safe anchorage, anchor the vessel and refuse to proceed on his course until the requisition has been complied with.

53. Any pilot in charge of a vessel who disobeys, or abets disobedience to, any of the provisions of this Chapter shall be punished with fine which may extend to five hundred rupees for each instance of such disobedience or abetment, and in addition shall be liable to have his authority to act as a pilot withdrawn.
Penalty on pilot disobeying provisions of this Chapter.

CHAPTER VII.

PROVISIONS WITH RESPECT TO PENALTIES.

54. If any person disobeys any rule or order which a Local Government has made in pursuance of this Act and for the punishment of disobedience to which express provision has not been made elsewhere in this Act, he shall be punished for every such offence with fine which may extend to one hundred rupees.
Penalty for disobedience to rules and orders of the Local Government.

55. All offences against this Act shall be triable by a Magistrate, and any Magistrate may, by warrant under his hand, cause the amount of any fine imposed upon the owner or master of any vessel, for any offence committed on board of the vessel or in the management thereof, or otherwise in relation thereto, whereof the owner or master is convicted, to be levied by distress and sale of the vessel, and the tackle, apparel and furniture thereof, or so much thereof as is necessary.
Offences how triable, and penalties how recovered.

56. (1) In case of any conviction under this Act the convicting Magistrate may order the offender to pay the costs of the conviction in addition to any fine or expenses to which he may be liable.
Costs of conviction.

(2) Such costs may be assessed by the Magistrate, and may be recovered in the same manner as any fine under this Act.

57. (1) If any dispute arises as to the sum to be paid in any case as expenses or damages under this Act, it shall be determined by a Magistrate upon application made to him for that purpose by either of the disputing parties.

Ascertainment and recovery of expenses and damages payable under this Act.

(2) Whenever any person is liable to pay any sum, not exceeding one thousand rupees, as expenses, or damages under this Act, any Magistrate, upon application made to him by the authority to whom the sum is payable, may, in addition to or instead of any other means for enforcing payment, recover the sum as if it were a fine.

58. Whenever any fine, expenses or damages is or are levied under this Act by distress and sale, the costs of the distress and sale may be levied in addition to

Costs of distress.

such fine, expenses or damages, and in the same manner.

59. If any dispute arises concerning the amount leviable by any distress or arrest under this Act or the costs payable under the last foregoing section, the person making the distress or using the arrest may detain the goods distrained or arrested, or

Magistrate to determine the amount to be levied in case of dispute.

the proceeds of the sale thereof, until the amount to be levied has been determined by a Magistrate, who, upon application made to him for that purpose, may determine the amount, and award such costs to be paid by either of the parties to the other of them as he thinks reasonable, and payment of such costs, if not paid on demand, shall be enforced as if they were a fine.

60. (1) Any person offending against the provisions of this Act in any port subject to this Act shall be punishable by any Magistrate having jurisdiction over any district or place adjoining the port.

Jurisdiction over offences beyond local limits of jurisdiction.

(2) Such Magistrate may exercise all the powers of a Magistrate under this Act, in the same manner and to the same extent as if the offence had been committed locally within the limits of his jurisdiction, notwithstanding that the offence may not have been committed locally within such limits, and, in case any such Magistrate exercises the jurisdiction hereby vested in him, the offence shall be deemed, for all purposes, to have been committed locally within the limits of his jurisdiction.

61. (1) No conviction, order or judgment of any Magistrate under this Act shall be quashed for error of form or procedure, but only on the merits, and it shall not be necessary to state, on the face of the

Conviction to be quashed on merits only.

conviction, order or judgment, the evidence on which it proceeds.

(2) If no jurisdiction appears on the face of the conviction, order or judgment, but the depositions taken supply that defect, the conviction, order or judgment shall be aided by what so appears in the depositions.

CHAPTER VIII.

SUPPLEMENTAL PROVISIONS.

62. (1) If any vessel belonging to any of Her Majesty's subjects, or sailing under British colours, hoists, carries or wears, within the limits of any port subject to this Act, any flag, jack, pennant or colours, the use whereof on board such vessel has been prohibited by the Merchant Shipping Act, 1854,¹ or any other statute now or hereafter to be in force, or by any proclamation made or to be made in pursuance of any such statute, or by any of Her Majesty's regulations in force for the time being, the master of the vessel shall, for every such offence, be punished with fine which may extend to fifty rupees.

(2) Such fine shall be in addition to any other penalty recoverable in respect of such an offence.

(3) The conservator of the port, or any officer of Her Majesty's Navy or Indian Marine Service, may enter on board any such vessel, and seize and take away any flag, jack, pennant or colours so unlawfully hoisted, carried or worn on board the same.

63. Any Magistrate, upon an application being made to him by the Consul of any Foreign Power to which the Foreign Deserters Act, 1852,² has by an Order of Her Majesty in Council been, or shall hereafter be, declared to be applicable, or by the representative of such Consul, and upon complaint on oath of the desertion of any seaman, not being a slave, from any vessel of such Foreign Power, may, until a revocation of such Order in Council has been publicly notified, issue his warrant for the apprehension of any such deserter, and, upon due proof of the desertion, may order him to be conveyed on board the vessel to which he belongs, or, at the instance of the Consul, to be detained in custody until the vessel is ready to sail, or, if the vessel has sailed, for a reasonable time not exceeding one month:

Provided that a deposit be first made of such sum as the Magistrate deems necessary for the subsistence of the deserter during the detention, and that the detention of the deserter shall not be continued beyond twelve weeks.

64. (1) The provisions of sections 10 and 21 shall be applicable to all ports heretofore or hereafter declared by the Local Government to be ports for the shipment and landing of goods but not otherwise subject to this Act, and may be enforced by any Magistrate to whose ordinary jurisdiction any such port is subject.

S. 62.—See 17 and 18 Vic. c. 104, s. 105.

S. 63.—See 15 and 16 Vic. c. 26.

(2) Any penalties imposed by him, and any expenses incurred by his order under the said provisions, shall be recoverable respectively in the manner provided in sections 55 and 57,

(3) In any of the said ports for the shipment and landing of goods the consent referred to in section 21, sub-section (4), may be given by the principal officer of customs at such port or by any other officer appointed in that behalf by the Local Government.

65. (*Relates to Burma.*)

66. Any money contributed before the passing of this Act from any port fund for any purpose connected with the health, recreation and well-being of sailors shall be deemed to have been lawfully contributed from the fund.

Validation of irregular contributions.

67. Any local authority in which any immoveable property in or near a port is vested may, with the previous sanction of the Local Government, appropriate, and either retain and apply, or transfer by way of gift or otherwise, the whole or any part of the property as a site for, or for use as, a sailors' home or other institution for the health, recreation and temporal well-being of sailors.

Grant of sites for sailors' institutes.

68. (1) All acts, orders or directions by this Act authorized to be done or given by any conservator may, subject to his control, be done or given by any harbour-master or any deputy or assistant of such conservator or harbour-master.

Exercise of powers of conservator by his assistants.

F. G. (1878) P. 2 p. 91

(2) Any person authorized by this Act to do any act may call to his aid such assistance as may be necessary.

69. Any written notice of a direction given under this Act, left for the master of any vessel with any person employed on board thereof, or affixed on a conspicuous place on board of the vessel, shall, for the purposes of this Act, be deemed to have been given to the master thereof.

Service of written notices of directions.

70. Every declaration, order and rule of a Local Government made in pursuance of this Act shall be published in the official Gazette, and a copy thereof shall be kept in the office of the conservator and at the custom-house, if any, of every port to which the declaration, order or rule relates, and shall there be open at all reasonable times to the inspection of any person without payment of any fee.

Publication of orders of Local Government.

THE FIRST SCHEDULE.

PORTS, VESSELS CHARGEABLE, RATE OF PORT-DUES AND FREQUENCY
OF PAYMENT.

(See Sections 1 and 33.)

PART III.—BOMBAY PRESIDENCY.

Name of port.	Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1	2	3	4
Bombay	Sea-going vessels of ten tons and upwards (except fishing-boats).	Not exceeding four annas per ton.	Once in the same month.
	Tug-steamers, ferry-steamers and river-steamers.	Ditto. ...	Once between the 1st January and the 30th June, and once between the 1st July and 31st December, in each year.
<i>Northern Group of Ports—</i>			
1. Gogha ...	Sea-going vessels of ten tons and upwards (except fishing-boats).	Not exceeding three annas per ton: provided that a coasting steamer whenever it enters any port may be charged at a rate to be determined by the Local Government and not exceeding the highest rate of port-dues leviable at any port of the group to which such port belongs and an addition of one-half of such highest rate.	Once in thirty days at the same port: provided that no coasting vessel or coasting steamer, having paid port-dues at any port, shall be chargeable with port-dues again at the same time (a) or any other port of the same group within thirty days.
2. Dholerá ...			
3. Tankári ...			
4. Dehegám ...			
5. Dehej ...			
6. Broach ...			
7. Bhagwá ...			
8. Súrat ...			
9. Matwád ...			
10. Bulaár ...			
11. Umarsádi ...			
12. Kolak ...			
13. Kélai ...			
14. Maroli ...			
15. Umbargám ...			
16. Gholwad ...			
17. Dáhnú Creek ...			
18. Tárápúr ...			
19. Olivára Navápur ...			
20. Sátápáti Creek ...			
21. Máhim (Kelva) ...			
22. Kelva ...			
23. Dántiora ...			
24. Arnála ...			

Sch. 1.—Parts I., II. and IV., which refer respectively to Bengal, Madras and Burma, are omitted.

Col. 4. (a).—The word "time" ought apparently to have been omitted.

PART III.—BOMBAY PRESIDENCY—*contd.*

Name of port.	Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1	2	3	4
<i>Southern Group of Ports—</i>			
1. Bándra	Sea-going vessels of ten tons and upwards (except fishing-boats).	Not exceeding three annas per ton: provided that a coasting steamer whenever it enters any port may be charged at a rate to be determined by the Local Government and not exceeding the highest rate of port-dues leviable at any port of the group to which such port belongs, and an addition of one-half of such highest rate.	Once in thirty days at the same port: provided that no coasting vessel or coasting steamer, having paid port-dues at any port, shall be chargeable with port-dues again at the same or any other port of the same group within thirty days.
2. Vesáva			
3. Manori			
4. Utan			
5. Bassein			
6. Bhiwandi			
7. Kalyán			
8. Thána... ..			
9. Trombay			
10. Panvel			
11. Karanjá			
12. Rewas... ..			
13. Nágothna			
14. Thal			
15. Alibág			
16. Revdandá			
17. Mándái			
18. Bánkót			
19. Kelshi			
20. Harnai			
21. Anjanwel			
22. Borya			
23. Jaygad			
24. Varavdá			
25. Ratnágiri			
26. Purangad			
27. Jaytápúr			
28. Vijaydurg			
29. Devgad			
30. Achra			
31. Málvan			
32. Nivti			
33. Vengurla			
34. Redi			
35. Terekhol			
36. Kárwár, including Baitkhol			
37. Chendiya			
38. Ankolá			
39. Gangávali			
40. Tadri			
41. Kumptá			
42. Honávar			
43. Murdeshwar			
44. Shiráli... ..			
45. Bhatkal			
Karáchi	Ditto	Not exceeding four annas per ton.	Once in three months.
	Tug-steamer and river-steamer.	Ditto... ..	Once between the 1st January and the 30th June, and once between the 1st July and the 31st December, in each year.
Aden	Sea-going vessels of ten tons and upwards.	Not exceeding three annas per ton.	Once a month.

THE SECOND SCHEDULE.

ENACTMENTS REPEALED.

(See section 2.)

Acts of the Governor General in Council.

Number and year.	Extent of repeal.	Number and year.	Extent of repeal.
XII. of 1875 ...	So much as has not been repealed.	IV. of 1881 ...	The whole.
IX. of 1879 ...	Section 17 and the preamble to that section.	XVII. of 1882 ...	The whole.
VII. of 1880 ...	The first paragraph of section 72, from and inclusive of the word "Chapter" down to and inclusive of the word "repealed".	V. of 1883 ...	Section 31.
		XI. of 1883 ...	The whole.
		IV. of 1884 ...	Section 3.
		V. of 1885 ...	The whole.

Act No. XI. of 1889. (*Burma*).

R. XII/9,02(1) **Act No. XII. of 1889. (*Obsolete*).**
Act 1889.

Act No. XIII. of 1889.

*1. See Notifications under
 XXI/79 as 4 & 5.*

RECEIVED THE ASSENT OF THE GOVERNOR GENERAL ON THE
 11TH OCTOBER, 1889.

THE CANTONMENTS ACT, 1889.

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Act X. Sch. 2.—The subjects or titles of Acts and the entries relating to a Madras and a Bengal Act are omitted.

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THE SCHEDULE—ENACTMENTS REPEALED.

An Act to amend the law relating to Cantonments.

WHEREAS it is expedient to amend the law relating to cantonments ;
It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Title, extent and commence-
ment.

1. (1) This Act may be called the Cantonments Act, 1889.

(2) It extends to the whole of British India, inclusive of Upper Burma; and

(3) It shall come into force on such day as the Governor General in Council, by notification in the Gazette of India, appoints in this behalf.

3. 1.—The provisions of this Act are applied to the cantonments of Deesa, Mhow and Neemuch, subject to certain modifications. See G. G. 1890, pp. 365, 484.

S. 1 (3).—The day appointed is the 1st January, 1890. See G. G. 1889, p. 1088. *Exp 675*
497. *1891*

2. (1) On and from that day the enactments specified in the schedule
 are repealed to the extent mentioned in the
 third column thereof:

Repeal.

(2) But all orders, declarations, rules and regulations made, directions, licenses and permits given, taxes imposed and notifications published under any enactment repealed by this Act or under any enactment repealed by any enactment repealed by this Act, and all limits defined as the local limits of a cantonment with the approval of the Governor General in Council or a Local Government before the passing of this Act, shall be deemed to have been respectively made, given, imposed and published, and to have been defined under this Act.

(3) Any enactment or document referring to any enactment repealed by this Act, or to any enactment repealed by any enactment repealed by this Act, or to any Regulation of the Bengal, Madras or Bombay Code respecting the fixing of the local limits of cantonments and military bázars, shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

3. (1) In this Act and in the rules there-
 under, unless there is something repugnant in
 the subject or context,—

Interpretation.

(a) "officer" means—

(i) a person who, being an officer within the meaning of the Army Act, 1881, is commissioned and in pay as an officer doing military duty with Her Majesty's regular forces as defined in that Act or as an officer doing such duty in any arm, branch or part of those forces, and

(ii) a person doing military duty as a warrant officer with those forces or with any arm, branch or part thereof, whether he is or is not an officer within the meaning of the Army Act, 1881:

(b) "soldier" means a person who is a soldier of Her Majesty's regular forces within the meaning of the Army Act, 1881, and is not an officer within the meaning of this Act:

(c) "spirituous liquor" means any fermented liquor, any wine, any alcoholic liquid obtained by distillation, and the sap of any kind of palm-tree, and includes any other liquid consisting of or containing alcohol which the Local Government, with the previous sanction of the Governor General in Council, may, by notification in the official Gazette, declare to be a spirituous liquor for the purposes of this Act:

(d) "intoxicating drug" means opium, gánja, bhang, charas and every preparation and admixture thereof, and includes any other intoxicating substance or liquid which the Local Gov-

ernment, with the previous sanction of the Governor General in Council, may, by notification in the official Gazette, declare to be an intoxicating drug for the purposes of this Act: and

- (e) "owner" includes the person who is receiving or entitled to receive the rent of any building or land, whether on his own account or on behalf of himself and others or as an agent or trustee, or who would so receive the rent or be entitled to receive it if the building or land were let to a tenant.

(2) The provisions of the General Clauses Acts, 1868 and 1887, shall, so far as they can be made applicable, apply to all rules which may be made under this Act by the Governor General in Council. ^{See now F/17 5520-24}

CHAPTER II.

CANTONMENTS AND CANTONMENT AUTHORITIES, COURTS AND POLICE.

Cantonments.

4. (1) The Local Government, with the previous sanction of the Governor General in Council, may, by notification in the official Gazette, declare any place

Definition of cantonments. in which any of Her Majesty's regular forces are quartered within the territories administered by such Government to be a cantonment for the purposes of this Act and of all other enactments for the time being in force, and may withdraw any such declaration.²

- (2) The Local Government, with the like sanction, may also, by a like notification, define the limits of any cantonment for the like purposes. ^{2 Bm dist of Local Rules & Orders Vol I (1896) 16 XXXV & XXXVI}

Cantonment Authorities and Magistrates.

5. For every cantonment beyond the limits of a presidency-town there shall be a cantonment authority and a Cantonment Magistrate.

6. (1) The expression "cantonment authority" as used in this Act means a cantonment committee or, ^{or extra} in the case of a cantonment for which such a committee has not been constituted, ~~the commanding officer of the cantonment.~~ ^{have clause substituted 4/1/03 & 35 sub 6 p. 2}

(2) The Local Government shall determine with respect to every cantonment in which troops are for the time being quartered, whether or not a cantonment committee is to be constituted.

(3) The cantonment authority shall be deemed to be a local authority as defined in the Local Authorities Loan Act, 1879, ^{Act XVIII of 1888 (to amend the Cattle-trespass Act, 1871)}, the Indian Telegraph Act, 1885, and the General Clauses Act, 1887. ^{4 See now F/17 53(28)}

S. 6.—A cantonment committee is a corporation which can sue and be sued. I. L. R., XIV, Bom., 286.

7. The Cantonment Magistrate shall be a Magistrate appointed by the Local Government under section 12 of the Code of Criminal Procedure, 1882, and, as such, subordinate to the District Magistrate, or to the District Magistrate and the Subdivisional Magistrate, as the case may be, under section 17 of that Code.

Cantonment Court of Small Causes.

8. (1) When the Local Government appoints the Cantonment Magistrate to be the Judge of a Court of Small Causes established within a cantonment under the Provincial Small Cause Courts Act, 1887, it shall, in its order appointing him to be such Judge, declare, and may, by notification in the official Gazette, vary, within a limit of five hundred rupees, the value of the suits which are to be cognizable by him under that Act.

(2) The provisions of section 15, sub-section (3), of the said Act shall not apply to a Court of Small Causes of which a Cantonment Magistrate is the Judge.

9. When the Local Government appoints an Additional Judge of a Court of Small Causes, of which a Cantonment Magistrate is the Judge, it shall, in its order appointing him to be such Additional Judge, declare, and may, by notification in the official Gazette, vary, within a limit of fifty rupees, the value of the suits with respect to which the functions of the Judge of the Court may be assigned to, and discharged by, the Additional Judge under section 8 of the Provincial Small Cause Courts Act, 1887.

10. Every Cantonment Magistrate presiding over a Court of Small Causes in a cantonment at the commencement of this Act, and every Assistant Cantonment Magistrate then having any of the powers of the Judge of such Court, shall be deemed to have been appointed Judge and Additional Judge, respectively, under section 6 and section 8 of the Provincial Small Cause Courts Act, 1887, and, in the absence of any order of the Local Government to the contrary, to have jurisdiction with respect to all suits which are cognizable by a Court of Small Causes under that Act and of which the value does not exceed, in the case of a Cantonment Magistrate, five hundred rupees and, in the case of an Assistant Cantonment Magistrate, fifty rupees.

11. A Cantonment Magistrate as Judge of a Court of Small Causes may, whatever may be the value of the suits cognizable by him as such Judge, dispose of any suit which was within the pecuniary limits of the jurisdiction of the Judge presiding over the Court at the time of the institution of the suit, and may entertain and dispose of any proceeding after decree in any such suit.

Cantonment Police.

12. (1) The police-force employed in a cantonment beyond the limits of a presidency-town shall, for the purposes of Act XXIV. of 1859 (*for the better regulation of the Police within the territories subject to the Presidency of Fort St. George*) or Act V. of 1861 (*for the regulation of Police*) or the corresponding law for the time being in force in the territories administered by the Governor of Bombay in Council (a), as the case may be, be deemed to be part of the general police-establishment under the superintendence of the Local Government in whose territories the cantonment is situated.

(2) The area comprised within the limits of a cantonment shall be deemed to be a town for the purposes of section 34 of Act V. of 1861.*

CHAPTER III.

SPIRITUOUS LIQUORS AND INTOXICATING DRUGS.

13. If within a cantonment, or within such limits around a cantonment as the Local Government may, by notification in the official Gazette, prescribe in this behalf, any person not subject to military law or any person subject to military law otherwise than as an officer or soldier, knowingly barter, sells or supplies, or offers or attempts to barter, sell or supply, any spirituous liquor or intoxicating drug to or for the use of any European soldier, or to or for the use of any European or Eurasian being a follower or a soldier's wife, without the written permission of the commanding officer of the cantonment or of some person authorized by the commanding officer to grant such permission, he shall be punished with fine which may extend to one hundred rupees or with imprisonment for a term which may extend to three months, or with both.

Unauthorized sale of spirituous liquor or intoxicating drug.

1. From distilling Local Rules & Ordinance No. 111. (1876) p. 107 & 108 and 107 & 108.

14. If within a cantonment, or within such limits around a cantonment as the Local Government may, by notification in the official Gazette, prescribe in this behalf,—

Unauthorized possession of spirituous liquor.

(a) any person subject to military law otherwise than as an officer or soldier, or

(b) the wife or servant of any such person or of a soldier, has in his or her possession, except on behalf of the Government or for the private use of an officer, more than one quart of any spirituous liquor other than fermented malt-liquor without the written permission of the commanding officer of the cantonment or of some person authorized by the commanding officer to grant such permission, he or she shall be punished, in

S. 12 (a)—See Bombay Act VII. of 1867.

the case of a first offence against this section with fine which may extend to fifty rupees, and in the case of a subsequent offence against this section with fine which may extend to one hundred rupees or with imprisonment for a term which may extend to three months.

15. (1) Any police-officer may, without an order from a Magistrate and without a warrant, arrest any person whom he finds committing an offence against either of the two last foregoing sections, and may seize and detain any spirituous liquor or intoxicating drug in respect of which such an offence has been committed, and any vessels or coverings in which the liquor or drug is contained.

(2) Where a person accused of an offence against section 13 has been previously convicted of an offence against that section, an officer in charge of a police-station may, with the written permission of a Magistrate, seize and detain any spirituous liquor or intoxicating drug within the cantonment, or within the limits prescribed under section 13, which at the time of the alleged commission of the subsequent offence belonged to, or was in the possession of, the person.

(3) The Court convicting a person of an offence against section 13 or section 14 may order the confiscation of the whole or any part of anything seized under sub-section (1) or sub-section (2).

(4) Subject to the provisions of Chapter XLIII of the Code of Criminal Procedure, 1882, anything seized under sub-section (1) or sub-section (2) and not confiscated under sub-section (3) shall be restored to the person from whom it was taken.

16. The foregoing provisions of this Chapter shall not apply to the sale or supply of any article for medicinal purposes by a medical practitioner, chemist or druggist.

Saving of article sold or supplied for medicinal purposes.

CHAPTER IV.

TAXATION AND CANTONMENT FUND.

Taxation.

17. (1) With the previous sanction of the Governor General in Council, the Local Government may, by notification in the official Gazette,—

General power of taxation.

S. 17.—It has been held that S. 22 of Act III of 1880 did not empower the Government to extend S. 226 of Bombay Act III, of 1872 to a cantonment. See B. H. C., Cr. Eg., 36th Oct. 1888.

(a) impose in any cantonment which is not included in a municipality any tax which, under any enactment in force at the date of the notification, can be imposed in any municipality within the territories administered by such Government, and

(b) abolish or modify any tax so imposed.

(2) When any tax is leviable in a cantonment in pursuance of a notification under sub-section (1), the Local Government, with the like sanction, may, by a like notification, apply or adapt to the cantonment the provisions of any enactment or rules in force at the date of the notification for the assessment and recovery of any tax in any municipality within the territories administered by such Government.

1 Bm dist of Local Rules & Orders Vol I (1896) 46 CXXXVIII.

18. (1) The Local Government may, by notification in the official Gazette, extend the provisions of Act XX. of 1856² to certain cantonments.

2 Bm dist of Local Rules & Orders Vol I (1896) 46 CXXXIX & CXL.

to make better provision for the appointment and maintenance of Police Chaukidars in Cities, Towns, Stations, Suburbs and Bázars in the Presidency of Fort William in Bengal) to any cantonment which is not included in a municipality and which is situated in any part of British India in which that Act is in force, and the Cantonment Magistrate may exercise all the powers of the Magistrate under that Act, subject only to the control of the District Magistrate and the Local Government.

(2) The Local Government may order that a cantonment to which the provisions of Act XX. of 1856 have been extended shall be divided into any number of cantonment divisions, and may determine the nature of the tax to be levied in each such division according to section 10 of that Act.

(3) The Local Government may, by notification in the official Gazette, cancel any notification under sub-section (1), and may revoke or vary any order under sub-section (2).

19. While a tax assessed according to the circumstances, and the property to be protected, of the persons liable thereto, or according to the annual value of houses and grounds, is levied under Act XX. of 1856 in a cantonment, a tax on persons practising any profession or art or carrying on any trade or calling, or a tax on buildings and lands, as the case may be, shall not be imposed under section 17 of this Act³ in the cantonment.

Restriction of power of taxation in cantonments in which Act XX. of 1856 is in force.

leviable in the cantonment (in part) of a division

3 X/1/91 p. 2(2) or 2nd II Page 10 p. 2(3).

20. (1) Notwithstanding anything in any enactment for the time being in force, the Governor General in Council may, by notification in the Gazette of India, prohibit the levy of the whole or any part of any tax

Power to prohibit or exempt from taxation.

imposed in a cantonment, or exempt any person by name or in virtue of his office or any class of persons, or any property or any class of property, from the operation of any such tax, and may, by a like notification, rescind any such prohibition or exemption.

(2) Where the area subject to the authority of a municipal committee as defined in section 2 of the Municipal Taxation Act, 1881, includes the whole or part of a cantonment, nothing in section 4 or section 5 of that Act or in any other like enactment for the time being in force shall apply to so much of that area as is comprised in the cantonment.

Cantonment Fund.

21. (1) There shall be formed for every cantonment which is not included in a municipality a cantonment fund, and there shall be placed to the credit thereof, among other sums, the following, namely:—

(a) subject to deductions under section 545 of the Code of Criminal Procedure, 1882, or under any other enactment for the time being in force or under any order of the Local Government, all fines recovered from persons convicted of offences committed within the cantonment against this Act or against any enactment extended or rule made thereunder, or against the provisions of section 34 of Act V. of 1861 or the corresponding enactment for the time being in force in the territories administered by the Governor of Fort St. George in Council or by the Governor of Bombay in Council (a), or against the provisions of Chapter XIII or Chapter XIV of the Indian Penal Code or of section 156 of the Army Act, 1881;

(b) the proceeds of taxes imposed under section 17 or levied under Act XX. of 1856 in the cantonment; and

(c) rents and profits accruing from property placed by the Government under the management of the cantonment authority.

(2) Notwithstanding anything in any enactment as to the purposes to which the proceeds of a tax are to be appropriated, the cantonment fund shall be applicable, subject to the rules under this Act, to the maintenance of the police-force employed in the cantonment and to the other purposes of this Act within the cantonment and, with the general or special sanction of the Local Government, to like objects, within or without British India, beyond the limits of the cantonment in cases in which, in the opinion of the Local Government, the application of the fund beyond those limits is for the benefit of the inhabitants of the cantonment or of any military force ordinarily quartered therein or of any detachment of any such force.

22. (1) Where, in or near a cantonment, there is a Government treasury or sub-treasury or a bank to which the Government treasury business has been made over, the cantonment fund shall be kept in the treasury, sub-treasury or bank.

(2) Where there is no such treasury, sub-treasury or bank, the cantonment fund may be deposited with any banker or person acting as a banker who has given such security for the safe custody and repayment on demand of the fund so deposited as the District Magistrate may in each case think sufficient.

23. The cantonment fund shall be vested in Her Majesty, and, subject to the provisions of this Act and of the rules thereunder and to the control of the Local Government, the management of the fund shall be entrusted to the cantonment authority.

24. The cantonment fund shall be deemed to be "public revenues" within the meaning of the proviso to section 6 of the Land Acquisition Act, 1870, and any property acquired at the cost of the cantonment fund shall vest in Her Majesty.

CHAPTER V.

SUPPLEMENTAL PROVISIONS.

25. The Governor General in Council may, by notification in the Gazette of India, extend to all cantonments or to any cantonment or to any part of any cantonment any enactment for the time being in force in any municipality in British India, and declare its extension to be subject to such restrictions and modifications, if any, as he thinks fit.

26. The Governor General in Council may make rules consistent with this Act to provide for all or any of the following matters, namely:—

- (1) the manner in which, and the authority to which, application for permission to occupy land belonging to the Government in a cantonment is to be made;
- (2) the conditions to be annexed to every such permission given in pursuance of such an application;
- (3) the preparation and maintenance of registers of immoveable property in cantonments;

- (4) the constitution of cantonment committees, the functions to be discharged by them, the conduct of, and the control to be exercised over, their proceedings, and the division of duties among the members of such committees ;
- (5) the functions to be discharged by the commanding officer of a cantonment where a cantonment committee has not been constituted, or has in pursuance of an order of the Local Government ceased to exist, or for any reason cannot be convened ;
- (6) the executive duties of the Cantonment Magistrate and his position in relation to the commanding officer of the cantonment ;
- (7) the purposes to which the cantonment fund may be applied ;
- (8) the authority on which money may be paid from the cantonment fund ;
- (9) the investment of any balance of that fund ;
- (10) the execution of contracts by, or on behalf of, the cantonment authority ;
- (11) the accounts to be kept by the cantonment authority, and the manner in which those accounts are to be audited and published ;
- (12) the definition and abatement of nuisances for which sufficient provision has not, in the opinion of the Governor General in Council, been made under section 25 ;
- (13) the requisitions which may be made on persons having the control of sewers, drains, latrines or other things creating, or likely to create, nuisances, and the mode of enforcing such requisitions ;
- (14) the prevention of the overcrowding of buildings and places in a cantonment ;
- (15) the construction and maintenance, to the satisfaction of the cantonment authority, of buildings and of boundary-walls, hedges and other fences ;
- (16) the regulation of the practice of agriculture and irrigation in a cantonment, the keeping of lands therein in proper order, and the felling, lopping and trimming of trees on such lands ;
- (17) the regulation of encamping-grounds, sarāis, markets and slaughter-houses, of traffic on roads, and of processions and public assemblies ;
- (18) the use and management of burial and burning grounds ;

- (19) the supervision and the regulation of the use of public wells, tanks, rivers, streams, springs or other sources from which water is or may be made available for public use, and of the lands in the vicinity thereof;
- (20) the parts of a cantonment in which persons practising any profession or carrying on any trade, calling or occupation may be required to reside for the purpose of practising the profession or carrying on the trade, calling or occupation, and the conditions, if any, to be observed by such persons;
- (21) the prevention of the spread of infectious or contagious disorders within a cantonment, and the appointment and regulation of hospitals or other places within or without a cantonment for the reception and treatment of persons suffering from any disease;
- (22) the segregation in, or the removal and exclusion from, a cantonment, or the destruction of animals suffering or supposed to be suffering from any infectious or contagious disease;
- (23) the suppression of mendicancy and of loitering or importuning for the purpose of prostitution, and the removal and exclusion from a cantonment of disorderly persons, of persons who have been convicted of any offence against Chapter XVII of the Indian Penal Code or section 156 of the Army Act, 1881³, or have been ordered under the Code of Criminal Procedure, 1882⁴, to execute a bond for their good behaviour, and of persons whom the commanding officer deems it expedient to exclude from the cantonment with or without assigning any reason for excluding them therefrom;
- (24) the prevention of cruelty to animals and the care of animals while grazing;⁵
- (25) the prevention and extinction of fires;
- (26) the registration of births and deaths;
- (27) the appointment by owners of buildings and lands in cantonments, who are absent from cantonments, of persons residing within or near cantonments to act as their agents for all or any of the purposes of this Act or any enactment extended or rule made thereunder;
- (28) the powers of inspection, entry and search which may be exercised in carrying out any of those purposes, and the cases in which breaches of enactments extended or rules made under this Act are to be cognizable offences;

S. 26. cl. (21).—Rules under this clause, in force in all cantonments in British India, are published at G. G. 1890, p. 653.

(29) the mode in which summonses, notices, requisitions and other documents are to be served on the persons to whom they are addressed;

(30) the cases, authorities and conditions in, to and on which executive orders passed under this Act or any enactment extended or rule made thereunder may be appealed from; and,

(31) generally, the carrying out of the purposes of this Act.

*'See 7/98 S.E. which
also a proviso which
again was repealed by
XV/97-3-2.*

27. (1) The power to make rules under the last foregoing section is subject to the condition of the rules being made after previous publication and of their not taking effect until they have been published in the Gazette of India and in such other manner as the Governor General in Council prescribes.

(2) A rule under the last foregoing section may be general for all cantonments in British India or for all cantonments not expressly excepted from its operation, or may be special for the whole or any part of any one or more than one cantonment, as the Governor General in Council directs.

(3) A copy of the rules for the time being in force in a cantonment shall be kept open to inspection free of charge at all reasonable times in the office of the Cantonment Magistrate.

(4) In making any rule under clause (12) or any of the following clauses of the last foregoing section, the Governor General in Council may direct that a breach of it shall be punished with fine which may extend to fifty rupees, or with imprisonment for a term which may extend to eight days, and, when the breach is a continuing breach, with fine which, in addition to such fine or imprisonment as aforesaid, may extend to five rupees for every day after the first during which the breach continues.

28. The Local Government may, by notification in the official Gazette, and subject to any conditions as to compensation or otherwise which it may see fit to impose, extend to any area beyond a cantonment and in the vicinity thereof—

*Extension of certain enactments
and rules to places beyond can-
tonments.*

(a) any enactment which, with or without restriction or modification, has been extended to the cantonment or any part thereof under section 25; or,

(b) any rule in force in the cantonment or any part thereof under clause (12) or any of the following clauses of section 26, as well as any direction there in force under sub-section (4) of section 27;

S. 27 (1).—See S. 6 of Act I. of 1887.

S. 27 (2).—See the note to S. 26, cl. (21).

and the enactment, rule or direction specified in the notification shall, so long as the notification remains uncanceled, apply to that area as if the area were included in the cantonment.*

29. A Judge or Magistrate shall not be deemed within the meaning of section 555 of the Code of Criminal Procedure, 1882, to be a party to, or personally interested in, any prosecution for an offence against this Act, or against any enactment extended or rule made thereunder, because he is a member of the cantonment committee or, where there is no such committee, is the commanding officer of the cantonment, or because he has ordered or approved the prosecution.

30. Where a cantonment is situated within the limits of a presidency-town, the functions assigned to any authority by this Act or any enactment extended or rule made thereunder shall, subject to the provisions of any enactment for the time being in force, be discharged by such authority as the Local Government may appoint in this behalf.

31. A suit or prosecution shall not be entertained in any Court against any cantonment authority, authority appointed under the last foregoing section, Cantonment Magistrate or commanding officer for anything in good faith done or purporting to be done in pursuance of powers conferred by or under this Act on such authority, Magistrate or officer, whether the thing done was or was not authorized by the powers so conferred.

32. (1) Section 54, paragraphs two and three, and sections 59, 107 and 123 of the Transfer of Property Act, 1882, with respect to the transfer of property by registered instrument, shall, on and from the commencement of this Act, extend to every cantonment in British India.

(2) Where a cantonment has not been constituted a sub-district or district for the purposes of the Indian Registration Act, 1877, under section 9 of that Act, the Registrar of the district in which the cantonment is situated shall cause a copy of such entries in Indexes Nos. I. and II. as relate to immoveable property within the limits of the cantonment to be forwarded to the Cantonment Magistrate annually or at such shorter intervals as the Local Government may prescribe.

33. The Governor General in Council may, by notification in the Gazette of India, exclude from the operation of the whole or any part of this Act the whole or any part of any cantonment.

THE SCHEDULE.
ENACTMENTS REPEALED.
(See Section 2).

Number and year.	Extent of repeal.	Number and year.	Extent of repeal.
1	2	1	2
<i>Acts of the Governor General in Council.</i>			
Act XVIII. of 1853.	The whole, so far as it has not been repealed.	Act XX. of 1875.	So much as relates to Bengal Regulation XX. of 1810.
Act IV. of 1854...	The whole, so far as it has not been repealed.		
Act XLV. of 1860.	The words "or before a Military Court of Request" in <i>Explanation I</i> to section 193.	Act XVIII. of 1876.	So much as relates to Bengal Regulation XX. of 1810.
Act V. of 1869 ...	Part III., clause (c) : and for the last twenty-seven words of Part I., clause (f), the following shall be substituted, namely :— "and officers in charge of the police in cantonments are defined and controlled."	Act III. of 1877 ..	The second paragraph of section 9, beginning with the word "when-ever" and ending with the word "thereof".
Act VII. of 1870...	Section 19, clause iv., and in Schedule II., article I. clause (a), the words "or to any Cantonment Magistrate sitting as a Court of Civil Jurisdiction under Act No. III. of 1859."	Act XIV. of 1879	Section 4, from and inclusive of the words "and the Governor General in Council may" down to and inclusive of the words "in which British troops are cantoned".
Act XV. of 1874...	So much of the second schedule as relates to Madras Regulation XIV of 1832: so much of the third schedule as relates to sections 18, 19, 20, 45, 46 and 47 of Bombay Regulation XXII. of 1827; and so much of the fourth and fifth schedules as relates to Bengal Regulation XX. of 1810.	Act III. of 1880..	So much as has not been repealed.
		Act XXII. of 1881 ¹	The proviso to section 53.
		Act X. of 1882 ² ...	Clause (b) of section 1.
		Act XIV. of 1882 ²	Section 6, clause (a), the words "an officer or" in section 468, and the whole of section 469.
		Act XX. of 1886..	In the first Part of the Second Schedule the words and figures "III. of 1880, Cantonments".

Regulation of the Bombay Code.

Regulation XXII. of 1827. So much as has not been repealed except sections 40, 41, 42, and 43.

Act of the Governor of Bombay in Council.

Act III. of 1867... So much as has not been repealed.

Sch.—The subjects or titles of Acts and the entries relating to Bengal and Madras Acts are omitted.

Act No. XIV. of 1889.

R xv/98 1.2 (1) 17.12

RECEIVED THE ASSENT OF THE GOVERNOR GENERAL ON THE
17TH OCTOBER, 1889.

An Act to indemnify certain witnesses.

WHEREAS by an order, dated the sixteenth day of October, 1888, a Commission was appointed by the Governor of Bombay in Council under Act XXXVII. of 1850 (*for regulating Inquiries into the behaviour of Public Servants*) for the purpose of enquiring into certain imputations of misbehaviour by a public servant;

And whereas in the course of the proceedings before the said Commission, and of certain enquiries preliminary to or connected with the said proceedings and undertaken by direction of the said Governor in Council, and in the investigation and trial of certain criminal charges against one Hunmuntrao Raghavendra, statements were made and evidence given by public servants and other persons, by reason of which statements or evidence the said public servants and other persons became or might become liable to suits, prosecutions or penalties under the Statute 49 Geo. III., Chapter 126, or the Indian Penal Code, or otherwise;

And whereas it is expedient to free the said public servants and other persons from all liability to civil or criminal proceedings in respect of any cause of action or charge arising out of any admission of an offence in any statements made or evidence given as aforesaid;

It is hereby enacted as follows:—

1. No suit, prosecution or other proceeding shall be commenced or continued against any person in respect of any cause of action or charge arising out of any offence admitted by him in any statement made or evidence given before the said Commission, or in any enquiry undertaken by direction of the said Governor in Council preliminary to or in connection with the proceedings of the said Commission or in the course of the said investigation and trial.

Indemnity to witnesses.

Act No. XV. of 1889.

RECEIVED THE ASSENT OF THE GOVERNOR GENERAL ON THE
17TH OCTOBER, 1889.

An Act to prevent the Disclosure of Official Documents and Information.

WHEREAS it is expedient to prevent the disclosure of official documents and information; It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Official Secrets Act, 1889; and

Title, extent and application.

- (2) It extends to the whole of British India, and applies—
 - (a) to all subjects of Her Majesty within the dominions of Princes and States in India in alliance with Her Majesty, and
 - (b) to all Native Indian subjects of Her Majesty without and beyond British India.

Definitions. 2. In this Act, unless there is something repugnant in the subject or context,—

- (1) any reference to a place belonging to Her Majesty includes a place belonging to any department of the Government, whether the place is or is not actually vested in Her Majesty:
- (2) expressions referring to communications include any communication, whether in whole or in part, and whether the document, sketch, plan, model or information itself or the substance or effect thereof only be communicated:
- (3) “document” includes part of a document:
- (4) “model” includes design, pattern and specimen:
- (5) “sketch” includes any photograph or other mode of representation of any place or thing: and
- (6) “office under Her Majesty” includes any office or employment in or under any department of the Government.

Disclosure of information. 3. (1) (a) Where a person for the purpose of wrongfully obtaining information—

- (i) enters or is in any part of a place belonging to Her Majesty, being a fortress, arsenal, factory, dockyard, camp, ship, office or other like place, in which part he is not entitled to be, or,
 - (ii) when lawfully or unlawfully in any such place as aforesaid, either obtains any document, sketch, plan, model or knowledge of anything which he is not entitled to obtain, or takes without lawful authority any sketch or plan, or,
 - (iii) when outside any fortress, arsenal, factory, dockyard or camp belonging to Her Majesty, takes or attempts to take without authority given by or on behalf of Her Majesty any sketch or plan of that fortress, arsenal, factory, dockyard or camp, or,
- (b) where a person knowingly having possession of, or control over, any such document, sketch, plan, model or knowledge as has been obtained or taken by means of any act which constitutes an offence against this Act at any time wilfully and without lawful authority communicates or attempts to

communicate the same to any person to whom the same ought not, in the interest of the State, to be communicated at that time, or,

- (c) where a person after having been entrusted in confidence by some officer under Her Majesty with any document, sketch, plan, model or information relating to any such place as aforesaid, or to the naval or military affairs of Her Majesty, wilfully and in breach of such confidence communicates the same when, in the interest of the State, it ought not to be communicated,

he shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

(2) Where a person having possession of any document, sketch, plan, model or information relating to any fortress, arsenal, factory, dockyard, camp, ship, office or other like place belonging to Her Majesty, or to the naval or military affairs of Her Majesty, in whatever manner the same has been obtained or taken, at any time wilfully communicates the same to any person to whom he knows the same ought not, in the interest of the State, to be communicated at that time, he shall be liable to the same punishment as if he committed an offence under the foregoing provisions of this section.

(3) Where a person commits any act declared by this section to be an offence, he shall, if he intended to communicate to a foreign State any information, document, sketch, plan, model or knowledge obtained or taken by him, or entrusted to him as aforesaid, or if he communicates the same to any agent of a foreign State, be punished with transportation for life or for any term not less than five years, or with imprisonment for a term which may extend to two years.

4. (1) Where a person, by means of his holding or having held an office under Her Majesty, has lawfully or unlawfully either obtained possession of or control over any document, sketch, plan or model, or acquired any information, and at any time corruptly or contrary to his official duty communicates or attempts to communicate that document, sketch, plan, model or information to any person to whom the same ought not, in the interest of the State, or otherwise in the public interest, to be communicated at that time, he shall be guilty of a breach of official trust.

(2) A person guilty of a breach of official trust shall—

- (a) if the communication was made or attempted to be made to a foreign State, be punished with transportation for life or for any term not less than five years, or with imprisonment for a term which may extend to two years, and
- (b) in any other case be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

(3) This section shall apply to a person holding a contract with any department of the Government, or with the holder of any office under Her Majesty as such holder, where such contract involves an obligation of secrecy, and to any person employed by any person or body of persons holding such a contract, who is under a like obligation of secrecy, as if the person holding the contract and the person so employed were respectively holders of an office under Her Majesty.

5. A prosecution for an offence against this Act shall not be instituted
 Restriction on prosecution. except by or with the consent of the Local Government or of the Governor General in Council.

Acts Nos. XVI., XVII., XVIII. and XIX. of 1889.
(Central Provinces.)

Act No. XX. of 1889.

RECEIVED THE ASSENT OF THE GOVERNOR GENERAL ON THE
 13TH NOVEMBER, 1889.

An Act to amend Act XXXVI. of 1858.

WHEREAS it is expedient to extend the authority of the Governor General in Council with respect to the appointment of asylums for the reception and detention of lunatics and with respect to the transfer of any lunatic from any one to any other lunatic asylum in British India; It is hereby enacted as follows:—

1. For section 17A of Act XXXVI. of 1858 (*an Act relating to Lunatic Asylums*), as amended by Act XVIII. of 1886 (*an Act to amend Act XXXVI. of 1858*), the following shall be substituted, namely:—

Substitution of new section
 for section 17A, Act XXXVI.,
 1858.

Provision for provinces having
 insufficient or no asylums.

“17A. In either of the following cases, namely:—

- (a) when an Executive Government has not established within its limits a public asylum for the reception and detention of lunatics,
- (b) when it appears to the Governor General in Council that a public asylum established within such limits is not conveniently situated with respect to any part of the territories administered by such Government or does not afford sufficient or, in the case of any class of lunatics, suitable accommodation,

the Governor General in Council may from time to time appoint an asylum in any part of British India beyond the limits of such Government to be an asylum to which any Magistrate or Judge exercising jurisdiction within those limits may send lunatics or any class of lunatics as to an asylum established under this Act for the division in which his jurisdiction is situate."

Addition of new section after section 17B, Act XXXVI., 1858.

2. After section 17B of the said Act XXXVI. of 1858, the following section shall be added, namely:—

" 17C. Any lunatic may be removed from any lunatic asylum established or licensed under this Act, by order of an Executive Government, to any other such asylum within the limits of such Government, and, by order of the Governor General in Council, to any other asylum in any part of British India."

Removal of lunatics from one asylum to another.

3. Section 11 of the said Act XXXVI. of 1858 is hereby repealed. *7/9/52(1) or 11/1/52*

Repeal of section 11 of Act XXXVI. of 1858.

Bombay Act No. I. of 1889.

PUBLISHED BY THE GOVERNOR OF BOMBAY ON THE 23RD MAY, 1890.

THE BOMBAY VILLAGE SANITATION ACT, 1889.

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The Bombay Village Sanitation Act, 1889.

WHEREAS, for the purpose of improving the sanitary condition of villages in the presidency of Bombay, it is expedient to provide for the constitution of Sanitary Committees and Boards having authority over such villages; It is enacted as follows:—

PART I.

PRELIMINARY.

1. This Act may be cited as "The Bombay Village Sanitation Act, 1889."

Short title.

2. It is applicable to the whole of the presidency of Bombay, except the city of Bombay, Aden and its dependencies, Perim, and the scheduled district of the Mehwasí Chiefs' villages, as defined in the Scheduled Districts Act, 1874.

3. During such time as Part II or Part III and the rules made thereunder shall be in force in any village, the enactments mentioned in the schedule shall, to the extent specified in the third column of the schedule, cease to have any operation in the said village.

Definitions. 4. In this Act, unless there be something repugnant in the subject or context :

- (a) "village" means the site of a village or town, determined for the time being as under section 126 of the Bombay Land Revenue Code, 1879, together with the area included within a distance of a quarter of a mile from any part of such site, in so far as such site or area is not included within a permanent municipal district or a military cantonment ;
- (b) "prescribed" means prescribed by a rule made under this Act ;
- (c) "chávdi" means in any village in which there is no chávdi, such place as the Collector directs shall be deemed to be the chávdi for the purposes of this Act.

5. (1) Part II shall come into force in any village to which the Collector extends the same, under the power hereinafter conferred upon him in this behalf, from such date as the Collector shall direct, and shall continue in force, when so extended, until the Governor in Council directs, by notification in the *Bombay Government Gazette*, that it shall cease to have operation in such village, or extends Part III to such village.

(2) Part III shall come into force in any village to which the Governor in Council extends the same, under the power hereinafter conferred upon him in this behalf, from such date as is directed in this behalf by the Governor in Council, and shall continue in force, when so extended, until the Governor in Council directs, by notification in the *Bombay Government Gazette*, that it shall cease to have operation in such village.

(3) Part IV shall have operation, as far as its provisions apply, in and in respect of every village in which either Part II or Part III is in force.

6. (1) Subject to the control of the Commissioner and of Government,
 the Collector may at any time extend Part II
 Part II how to be extended to any village in his district in which Part III
 to a village. is not in force.

(2) For the purpose of extending Part II to any such village, the Collector shall cause to be published, by posting up copies thereof in conspicuous places in his own office and in the office of the Mámíatdár and of the Mahálkari within whose táluka or mahál the said village is situate and in the chávdi or some other public building in the said village, a proclamation in the language of the district directing that, unless a proclamation be thereafter issued by him to the contrary, Part II shall extend to the said village on and from a date to be specified in the proclamation, which shall not be less than two months after that on which the proclamation is posted up in the village, and stating that any objection which any inhabitant of the village may desire to make to the said extension will, if submitted to the Collector not later than one month before the said specified date, be received and considered.

(3) If, after considering any objections which may have been made as aforesaid, the Collector shall be of opinion that good cause exists for not extending Part II to the village, or for not extending it thereto immediately, he may, by proclamation published as aforesaid:

(a) cancel his previous proclamation; or

(b) suspend the extension of Part II to the said village for a specified period.

(4) If the Collector suspends the extension of Part II to the village for a specified period, he may thereafter, by proclamation published as aforesaid:

(c) at any time abandon the proposed extension; or

(d) from time to time defer the extension for a further specified period.

7. (1) The Governor in Council may at any time extend Part III to
 any village in any part of the presidency to
 Part III how to be extended to which this Act is applicable, whether Part II
 a village. is at the time in force in such village or not.
 Such extension to a village where Part II is in force, shall cause Part II to
 cease to operate therein.

(2) For the purpose of extending Part III to any such village, the Governor in Council shall, by notification in the *Bombay Government Gazette*, direct that, unless a notification be thereafter issued by him to the contrary, Part III shall extend to the said village on and from a date to be specified in the notification, which shall not be less than three months from the date of the notification and stating that any objection which any inhabitant of the

village may desire to make to the said extension will, if submitted to a Secretary to Government, or to the Collector, not later than one month before the said specified date, be received and considered.

(3) If, after considering any objections which may have been made as aforesaid, Government shall be of opinion that good cause exists for not extending Part III to the village or for not extending it thereto immediately, it may, by notification in the *Bombay Government Gazette*, exercise the like powers with respect to the extension of the said Part as the Collector is authorized to exercise, with respect to Part II by sub-sections (3) and (4) of section 6.

(4) Translations in the language of the district of every notification issued by Government under this section shall be published by the Collector, without delay, in the manner prescribed in sub-section (2) of section 6 for the publication of a proclamation issued by himself.

PART II.

SANITARY COMMITTEES.

8. (1) There shall be a Sanitary Committee in every village to which this Part is extended. The said committee shall consist of three or more adult householders, residents of the village, chosen, with their own consent, by the Collector, of whom the Police Patel shall be one, unless the Collector for reasons recorded in writing in any particular case determines otherwise. For the purpose of aiding him in his choice, the Collector may, in his discretion, procure the nomination or election, by the house-holders of the village, of qualified persons, in such mode as he shall deem expedient.

(2) The chairman of the said committee shall be nominated by the Collector.

(3) The chairman and other members of the committee shall hold office for the prescribed period.

9. The proceedings of the Sanitary Committee shall be recorded in the prescribed manner (or, until rules are made under section 11, in such manner as the Collector by written order directs), by the village accountant or such other person as the Collector appoints in this behalf, and in the absence of the village accountant or person so appointed, by such other person as the committee may employ for this purpose; and the said record shall be verified by the signature of the chairman or of some other member of the committee authorized by the committee in that behalf, below each day's proceedings.

10. Every Magistrate having jurisdiction in the village may take part in the proceedings of the committee at any meeting thereof at which he is present, and such Magistrate or, if there be more than one, the highest in magisterial rank of such Magistrates, shall for this purpose be deemed to be a member and President of the committee for the occasion.

Magistrates having jurisdiction in the village may take part in committee's proceedings.

11. The Sanitary Committee may from time to time make rules, and repeal or vary the same, with the approval of the Collector:

- (a) for regulating the terms of office of its members and its proceedings ;
- (b) for determining the manner in which its proceedings shall be recorded ;
- (c) for procuring and preserving for the use of the village an adequate supply of pure potable water ;
- (d) for the cleansing of the streets and open spaces of the village ;
- (e) for preventing accumulations of offensive and noxious matter in the village ;
- (f) for preventing nuisances and indecent or insanitary acts or omissions in the village ; and
- (g) generally for giving effect in the village to the purposes of this Act.

12. (1) For not less than three months before any rule which it is proposed to make under section 11 is to come into force, the committee shall exhibit a copy thereof at the chávdi or some other public building in the village, and there shall be affixed to such copy a notice that objections thereto made in writing to the Collector not later than one month before the date fixed for their coming into force—which date shall be specified—will be received and considered.

Provisions concerning the making of rules.

(2) Any objections so made shall be considered by the Collector, in conference with the committee. If, on such consideration, it shall seem desirable to alter or withdraw the proposed rule, such alteration or withdrawal shall be effected by a notice exhibited as aforesaid. If the Collector deems it expedient to suspend the operation of a rule, it may be suspended for a specified period by a notice exhibited as aforesaid, which shall state that objections thereto, made as aforesaid not later than one month before the expiry of the said period, will be received and considered. Any objection so made shall be considered as aforesaid, and if it then seems desirable to alter or withdraw the rule, the same shall be notified as aforesaid.

(3) Subject to the provisions of sub-section (2), every rule made by the committee, with the approval of the Collector and notified as aforesaid, shall come into force on the day notified in this behalf.

13. Whenever it shall come to the notice or knowledge of the Sanitary Committee that any person in the village has apparently committed or is accused of having committed a breach of any rule made by the committee under section 11, such committee may, by notice in writing, require such person's attendance before the committee.

Prosecution of offenders against the rules. 14. (1) All offences against the rules made by the committee under section 11 shall be cognizable by the committee.

Cognizance by the committee of offences against the rules. (2) For the purpose of exercising this jurisdiction, the committee shall assemble as often as shall be necessary or as the Magistrate of the District shall direct at the chāvdi or some other convenient place within the village or near thereto.

(3) The committee shall, in the presence of the accused person, or if notwithstanding the service of a notice upon the said person as aforesaid he fails to appear, then in his absence, take evidence as to the alleged offence and any evidence produced by the said person in his defence, and shall thereupon either acquit or convict the accused person and, if he is convicted, may sentence him to such punishment authorized by this Act or by the rules as it thinks reasonable.

15. (1) A person convicted by the committee may, at any time within ten days after sentence is passed against him, appeal to the Magistrate of the District or other Magistrate vested under the Code of Criminal Procedure with appellate jurisdiction over the place where the sentence is passed, or to such other Magistrate, not being a member of such committee, as the Magistrate of the District may, subject to the orders of Government from time to time, appoint in this behalf.

Appeals against the committee's decisions. (2) If such person gives notice of his intention to appeal and deposits with an officer appointed by the Magistrate of the District in this behalf the amount of the fine inflicted upon him, execution of the sentence shall be suspended until the lapse of ten days from the date of the sentence, or, if an appeal is made, until it is disposed of. If within ten days no appeal is made, the sum deposited shall be appropriated to payment of the fine inflicted.

(3) The Magistrate who hears the appeal may confirm, reverse or modify the decision of the Sanitary Committee and may pass any order as to punishment which it was competent to the committee to pass. His order shall be enforced in like manner as one made by the Sanitary Committee.

(4) The said Magistrate may suspend execution of the sentence pending disposal of the appeal when such suspension shall appear to him necessary or expedient, on such terms as shall seem reasonable.

16. For the purpose of providing for the village an adequate supply of pure potable water, of cleansing the streets and open spaces thereof, of removing offensive and noxious matter therefrom, and for other purposes conducive to the health and comfort of the inhabitants of the village, the Sanitary Committee may utilize, as far as available, the voluntary labour of inhabitants of the village and the services of village servants placed at its command under section 42; and when these means are insufficient, may from time to time, with the approval of the Collector, employ such servants, enter into such contracts, make such deductions and allowances from any rate leviable under its authority, and may authorize the expenditure by the Collector or under his control, of such sums of money as shall be necessary and reasonable, for the purpose aforesaid.

17. The inhabitants of the village may by voluntary subscription raise any sum of money for any of the purposes aforesaid and such sum may be paid to the Mámíatdár or other officer appointed by the Collector in that behalf and shall by him be placed to the credit of an account which he shall keep in the name of the Sanitary Committee, for the defrayal of charges incurred under this Act for the purpose for which the subscription was raised.

18. (1) If any sum of money of which the expenditure is authorized by the committee is not raised by voluntary subscription, and is not available from any other source, the same may be recovered by a rate charged on the inhabitants of the village and assessed by the Collector, in conference with the Sanitary Committee.

(2) Provided that the aggregate amount to be so charged in any year, on the inhabitants of any village, shall not exceed one-half of the aggregate amount leviable in that year as Local Fund Cess from the inhabitants of such village.

(3) It shall be lawful for the Sanitary Committee, out of any unappropriated balance of money standing to its credit under the provisions hereinafter enacted, to make such contribution on such terms as it shall deem expedient, to the cost of any work under construction by a Local Board, in fulfilment of the duties imposed on it by section 30, clauses (c), (e) and (f) of Bombay Act I. of 1884.

PART III.

SANITARY BOARDS.

19. (1) There shall be a Sanitary Board in every village to which this Part is extended, or one such board for a group of two or more such villages, as Government may direct. Each such board shall consist of such number of persons appointed by the Collector as Government directs, the said persons being residents within or near to the area which is to be subject to the board's authority and having property therein, and shall ordinarily include the Police Patels. For the purpose of aiding him in his choice, the Collector may in his discretion obtain the nomination or election of qualified persons from amongst whom he will select all or some of the members, according to such mode and local distribution as shall seem expedient.

(2) Each meeting of such board shall be presided over by the Magistrate of highest rank present thereat who is a member, or, in the absence of any such Magistrate, by such member as the Collector, subject to the orders of Government, appoints to be the president of the board. In the absence of any Magistrate and of the president, a meeting of the board shall be presided over by such one of the members present as may be chosen by the meeting to be chairman for the occasion.

(3) The president and members of the board shall hold office for the prescribed period.

20. The Sanitary Board may from time to time make rules, with the approval of the Collector, and, save as herein-after provided, shall discharge functions and exercise authority for the area subject to its authority in respect of the same matters, in the same manner, and subject to like provisions, restrictions and conditions as are hereinbefore enacted in the case of a Sanitary Committee.

21. (1) The Collector may, subject to the orders of Government, from time to time appoint a Sanitary Inspector for any area or any part of the area subject to the authority of a Sanitary Board, and also such other subordinates as shall appear necessary, and determine the amount of salary to be paid to each of such officers. He may also dismiss or suspend the said officers.

(2) Such Sanitary Inspector may be a person employed by the Táluka or District Local Board having authority at the place. He may be employed by or on behalf of two or more Sanitary Boards.

Duties of the Sanitary Inspector.

22. (1) The Sanitary Inspector shall take measures for preventing breaches of the rules in force in the area for which he is appointed, by, from time to time :

- (a) posting up and otherwise publishing a general admonition respecting the observance of the said rules ; or
- (b) admonishing any person whom he finds offending against any of the said rules ; or
- (c) summoning to appear before the Sanitary Board any person who, from his own observation or from reports made to him by his subordinates, he has reason to think should be prosecuted for offending against any of the said rules.

(2) The Sanitary Inspector shall make such reports and be in such relation to the Sanitary Commissioner, consistent with the duties and obligations imposed on him by this Act or arising out of his position as a servant of a Local or Sanitary Board, as Government may prescribe.

23. The board may also by notice in writing require the attendance before the board of any person who is accused of having committed, or who, to the knowledge of the board, has apparently committed, a breach of any rules made by the board under section 20.

Prosecutions for breaches of rules at instance of the board.

24. (1) All offences against the rules made by the board under section 20 shall be cognizable by the board, who, for the purpose of exercising this jurisdiction, shall assemble as often as shall be necessary or as the Magistrate of the District shall direct, at some convenient place within or near to the area subject to its authority.

Cognizance by the board of offences against the rules.

(2) The provisions of sub-section (3) of section 14 and of section 15 shall apply, as nearly as may be, to the hearing and decision of cases under this section by a Sanitary Board and to appeals by persons convicted by such board.

25. (1) The orders of every Sanitary Board shall be carried out and its orders and proceedings shall be recorded in the prescribed manner and preserved by such member of the board or by such officer of the board, or by such other officer, as the Collector may from time to time nominate in this behalf.

Sanitary Board's orders by whom to be carried out.

(2) The person authorized in this behalf shall be bound to keep a true record of the board's proceedings and orders, under his signature, and truly to prepare all summonses, notices and orders issuing by direction of the board or of any member thereof in accordance with this Act or with rules made under section 20.

Sanitary Board may enter into certain contracts.

26. A Sanitary Board may, with the approval of the Collector, contract with any person :

- (a) for the daily surface-cleansing of the streets and public spaces within the area or any portion of the area subject to its authority, so far as the same cannot be effected by means of the village servants, if any, whose services are placed at its command under section 42 ; or
- (b) for the removal from the said area of sweepings, dust, ashes, refuse, rubbish, carcasses of dead animals and any offensive or noxious matter.

27. Every Sanitary Board may, with the approval of the Collector, cause to be constructed such works and buildings as shall be necessary for providing for the area subject to its authority or any part thereof :

Works and buildings which may be provided by a Sanitary Board.

- (a) an adequate supply of water ;
- (b) proper and convenient places for the temporary deposit or final disposal of sweepings, dust, ashes, refuse, rubbish, carcasses of dead animals and other offensive or noxious matter ;
- (c) means for conveying away or removing the several matters and things specified in clause (b).

28. The inhabitants of the area or of any part of the area subject to the authority of a Sanitary Board may by voluntary subscription raise any sum of money for any purpose for which the board may incur expenditure and such sum may be paid to the Mámlatdár or other officer appointed by the Collector under section 30, and shall by him be placed to the credit of the board for expenditure within the area in which and on the purpose for which the subscription was raised.

Voluntary subscription may be raised to meet a Sanitary Board's expenditure.

29. Every Sanitary Board shall be bound to provide for, or authorize the expenditure necessary for :

Purposes for which expenditure is to be incurred by Sanitary Board.

- (a) paying the salaries of the Sanitary Inspector and other officers, if any, appointed under section 21 ; and
- (b) providing stationery and other requisites for the use of the board and of the said Sanitary Inspector and other officers, if any ; and
- (c) fulfilling any contract entered into by it under section 26 ; and
- (d) constructing necessary works and buildings under section 27.

30. (1) A debit and credit account shall be kept by the Mámíatdár or other officer appointed by the Collector in that behalf in the name of each Sanitary Board. To the debit of such account shall be placed all expenditure authorizedly incurred under section 29. To its credit shall be placed all sums raised by voluntary subscription under section 28, all sums realized from any other source for meeting the board's expenditure and the net proceeds of any rate assessed as hereinafter provided.

(2) For the purpose of raising money for expenditure by a Sanitary Board under this Act, the Collector may, subject to the same limit as is by section 18 (2) provided in respect of rates charged under section 18 (1), from time to time, in conference with such board, charge and assess a rate on the inhabitants of the area or of any part of the area subject to the board's authority.

(3) The burden of any rate charged under sub-section (2) shall be distributed over the several parts of the area subject to the board's authority in such proportions as the Collector, in conference with the board, directs, or, if the Collector, in conference with the board, so determines, shall be placed wholly on one or more such parts.

PART IV.

GENERAL PROVISIONS.

31. The Executive Engineer of the district and any subordinate of the Executive Engineer, of the Sanitary Commissioner or of a Local Board, having authority at the place, whom the Collector may appoint generally or specially in this behalf, shall have, in relation to a Sanitary Committee or Board, such rights and duties as are assigned to certain officers in relation to Local Boards by the first paragraph of section 33 of Bombay Act I. of 1884.

32. The Collector may, after recording his reasons for the same, remove from office any member or chairman of a Sanitary Committee and, with the sanction of Government, any member or president of a Sanitary Board, who appears to be incompetent or who has been guilty of any misconduct or neglect of duty which appears to render his removal expedient.

33. (1) Whenever for any reason a vacancy occurs or is about to occur in the office of a member, or chairman of a Sanitary Committee or of a member or president of a Sanitary Board, the Collector shall without delay appoint a person to fill such vacancy.

(2) During any such vacancy the continuing members of a Sanitary Committee or Board may act as if no vacancy had occurred.

34. Every question which comes before a Sanitary Committee or Board for decision, shall be decided by a majority of votes of the members present and voting at a prescribed meeting of such committee or board or at a meeting thereof assembled by direction of the Collector or otherwise after notice duly issued to all the members, the member who presides having a second or casting vote, when there is an equality of votes.

35. Summonses, notices and orders issued by a Sanitary Committee or Board or with its authority may be signed on behalf of the committee or board by the member presiding at any meeting of such committee or board.

36. A breach of any rule made by a Sanitary Committee or Board under this Act in respect of any matter other than the matters specified in clauses (a) and (b) of section 11 shall be punishable, unless in any case a smaller maximum punishment is prescribed by the said rules, with fine which may extend to ten rupees and in default, with confinement in the chāvdi for a period which may extend to forty-eight hours and, in the case of a continuing breach, with fine which may extend to two rupees for every day, after conviction for the first breach or after receipt of notice from the committee or board or from the sanitary inspector to discontinue the breach, during which the breach continues and, in default, with confinement as aforesaid.

37. (1) A Sanitary Committee or Board may allow to a person sentenced to pay a fine such time not exceeding four days as it may think proper for payment of the fine, on such terms as to security as it shall seem to the committee or board necessary to impose.

(2) Whenever default is made in the payment of a fine, the Sanitary Committee or Board, which passed the sentence or on appeal from whose decision the sentence was passed, may in its discretion by written order direct the levy of the amount, although the sentence directs that, in default of payment of the fine, the offender shall be confined and the offender is or has been confined.

38. All fines for the levy of which an order has been issued as aforesaid, all sums assessed on account of any rate under this Act, which are not paid after reasonable notice, shall be leviable by the patel or by such other person as the Collector or the Sanitary Committee or Board, with the Collector's sanction, appoints in that behalf, by distress and sale of any moveable property of the

person liable therefor, subject to such exceptions as are enacted in the Code of Civil Procedure (a) in respect of the sale of moveable property in execution of decrees.

39. All fines levied in respect of breaches of rules made under this Act shall, after deducting the expenses, if any, of prosecuting the offenders, be paid to the Mámíatdár or other officer appointed by the Collector under section 17 or 30 and shall by him be placed to the credit of the account of the Sanitary Committee or Board having authority over the village in which the breach was committed, for expenditure on any purpose contemplated by this Act.

40. (1) Any District or Táluka Local Board may from time to time assign, by way of donation or loan, to the Sanitary Committee or Board of any village or group of villages in the area subject to its authority, Contributions and loans from Local Boards. for expenditure on any purpose contemplated by this Act, such sum out of the portion of the local fund at its disposal as it shall think proper.

(2) Any sum so assigned shall be paid to the Mámíatdár or other officer appointed by the Collector under section 17 or 30 and shall by him be placed to the credit of the account of the Sanitary Committee or Board to which it is assigned.

(3) But no sum shall be so assigned by way of loan without the sanction of the Collector, and every sum assigned by way of loan with such sanction shall be recoverable by the Collector in such instalments of interest and of principal as shall be agreed upon between the parties, by a rate charged and assessed by the Collector, in conference with the Sanitary Committee or Board, upon the inhabitants of the area subject to the authority of such committee or board.

41. (1) Works for the supply of water or for the drainage of two or more villages subject to the authority of different Sanitary Committees or Boards and any other work or measure conducive to the common health or comfort of two or more such villages may, upon request made, with the approval of the Collector, by all such committees and boards or by a majority of them, be executed by or under the direction of the Collector or of such other officer as Government appoints in this behalf. Execution of works in which two or more Sanitary Committees or Boards are jointly interested.

(2) The cost of any such work or measure shall be divided between the several committees and boards in such proportions as shall be agreed upon by them, or, in default of such agreement, as the Collector Recovery of cost of such works.

shall determine; and shall be recoverable in the said proportions by a rate charged and assessed by the Collector, in conference with each committee and board, upon the inhabitants of the areas subject respectively to the said committee's and board's authority: Subject to the same limit as is provided by section 18, clause (2) in respect of rates charged under section 18, clause (1).

(3) Where any work undertaken or proposed by a committee or board constituted under this Act shall be such as to interfere with or materially affect any work undertaken or proposed by a District or Taluka Local Board, such latter board may require the Sanitary Committee or Board to desist from such work as aforesaid, and it shall thereupon be the duty of the District or Taluka Local Board to make reasonable provision within reasonable time, for supplying to the area under the authority of the Sanitary Committee or Board, such means of health, cleanliness and decency, or means equivalent thereto, as would have been furnished by the work abandoned in consequence of such requisition as aforesaid.

(4) For the purpose of obtaining information as to any work intended or in course of construction, to which the provisions of the preceding clause may apply, it shall be lawful for the Taluka District Local Board to call for such report from the Sanitary Committee or Board, through the Collector, as shall be necessary and reasonable, and to cause such inspection and report to be made by any person in its employment, as it shall deem necessary in this behalf, and it shall be the duty of the Sanitary Committee or Board concerned to comply with such requisition and to give reasonable aid and furtherance to any inspection ordered as aforesaid.

42. Village servants who hold land, profits of land or other emoluments by way of remuneration, wholly or partly, for services consisting in or connected with cleansing or conservancy may, as to such services, be placed by the Collector, subject to the control of Government, under the command and superintendence of the Sanitary Committee or Board having authority in the place in respect of which the said services are due and shall be bound to fulfil all reasonable orders of the said committee or board under such reasonable penalties as may be provided in any rule made under this Act.

43. (1) The Collector shall :

Determination and recovery of dues of village servants placed under command of Sanitary Committee or Board.

(a) determine all questions as to the amount of any payment at any time by custom or under any settlement mentioned in section

18, 19 or 20 of the Bombay Hereditary Offices Act due to a village servant placed under the command of a Sanitary Committee or Board under the last preceding section ; and

(b) if necessary, cause the amount which he determines to be due or the money value thereof at the market-rate of the time being, if the due is payable in kind, to be recovered on behalf of the village servant entitled thereto, free of charge, as if the same were an arrear of land-revenue :—

(2) Provided that the Collector may decline to cause such recovery to be made on behalf of any servant, if, in his opinion, the duty in respect of which the payment is due has not been duly performed by such servant.

44. Any power conferred or duty imposed by this Act upon the Collector may, with the sanction of Government, be delegated by him to an Assistant or Deputy Collector.

45. In the discharge of the duties and the exercise of authority assigned to them by this Act, Collectors, Magistrates and other public servants shall be subject to the like control as in the discharge of their ordinary functions.

46. (1) No Magistrate, Collector, president, or member of a Sanitary Committee or Board, or sanitary inspector shall be liable to any penalty or to payment of damages for any act by him done in good faith in pursuance or intended pursuance of any authority or duty conferred or imposed upon him by this Act.

(2) And no public servant or person duly authorized or appointed shall be liable as aforesaid for giving effect in good faith to any order or direction issued with apparent authority by a person empowered in that behalf under this Act or under any rule made hereunder.

SCHEDULE.

(See Section 3.)

No. and year of enactment.	Subject or title.	Extent of repeal.
Bo. Act VII. of 1867 ...	The Bombay District Police Act, 1867.	Sections 33 and 34.
Bo. Act VIII. of 1867 ...	The Bombay Village Police Act, 1867.	Clauses 2, 3 and 4 (except the first two and the last thirteen words) and 5 of section 16.

Act No. I. of 1890.

RECEIVED THE ASSENT OF THE GOVERNOR GENERAL ON THE
14TH FEBRUARY, 1890.

An Act to make better provision for recovering certain public demands.

WHEREAS it is expedient to make better provision for recovering certain public demands; It is hereby enacted as follows:—

Title, extent and commencement. (1) This Act may be called the Revenue Recovery Act, 1890.

(2) It extends to the whole of British India, inclusive of ~~Upper Burma~~ ^{XIII/98 s. 18} and British Baluchistan; and ^{✓ Sd. V. P. I.}

(3) It shall come into force at once.

Definitions. 2. In this Act, unless there is something repugnant in the subject or context,—

(1) “district” includes a presidency-town:

(2) “Collector” means the chief officer in charge of the land-revenue administration of a district: and

(3) “defaulter” means a person from whom an arrear of land-revenue, or a sum recoverable as an arrear of land-revenue, is due, and includes a person who is responsible as surety for the payment of any such arrear or sum.

3. (1) Where an arrear of land-revenue, or a sum recoverable as an arrear of land-revenue, is payable to a Collector by a defaulter being or having property in a district other than that in which the arrear accrued or the sum is payable, the Collector may send to the Collector of that other district a certificate in the form as nearly as may be of the schedule, stating—

Recovery of public demands by enforcement of process in other districts than those in which they become payable.

(a) the name of the defaulter and such other particulars as may be necessary for his identification, and

(b) the amount payable by him and the account on which it is due.

(2) The certificate shall be signed by the Collector making it, and, save as otherwise provided by this Act, shall be conclusive proof of the matters therein stated.

(3) The Collector of the other district shall, on receiving the certificate, proceed to recover the amount stated therein as if it were an arrear of land-revenue which had accrued in his own district.

4. (1) When proceedings are taken against a person under the last foregoing section for the recovery of an amount stated in a certificate, that person may, if he denies his liability to pay the amount or any part thereof and pays the same under protest made in writing at the time of payment and signed by him or his agent, institute a suit for the repayment of the amount or the part thereof so paid.

(2) A suit under sub-section (1) must be instituted in a Civil Court having jurisdiction in the local area in which the office of the Collector who made the certificate is situate, and the suit shall be determined in accordance with the law in force at the place where the arrear accrued or the liability for the payment of the sum arose.

(3) In the suit the plaintiff may, notwithstanding anything in the last foregoing section, but subject to the law in force at the place aforesaid, give evidence with respect to any matter stated in the certificate.

5. Where any sum is recoverable as an arrear of land-revenue by any public officer other than a Collector or by any local authority, the Collector of the district in which the office of that officer or authority is situate shall, on the request of the officer or authority, proceed to recover the sum as if it were an arrear of land-revenue which had accrued in his own district, and may send a certificate of the amount to be recovered to the Collector of another district under the foregoing provisions of this Act, as if the sum were payable to himself.

6. (1) When the Collector of a district receives a certificate under this Act, he may issue a proclamation prohibiting the transfer or charging of any immoveable property belonging to the defaulter in the district.

(2) The Collector may at any time, by order in writing, withdraw the proclamation, and it shall be deemed to be withdrawn when either the amount stated in the certificate has been recovered or the property has been sold for the recovery of that amount.

(3) Any private alienation of the property or of any interest of the defaulter therein, whether by sale, gift, mortgage or otherwise, made after the issue of the proclamation and before the withdrawal thereof, shall be void as against the Government and any person who may purchase the property at a sale held for the recovery of the amount stated in the certificate.

(4) Subject to the foregoing provisions of this section, when proceedings are taken against any immoveable property under this Act for the recovery of an amount stated in a certificate, the interests of the defaulter alone therein

shall be so proceeded against, and no incumbrances created, grants made or contracts entered into by him in good faith shall be rendered invalid by reason only of proceedings being taken against those interests.

(5) A proclamation under this section shall be made by beat of drum or other customary method and by the posting of a copy thereof on a conspicuous place in or near the property to which it relates.

Saving of local laws relating to revenue. 7. Nothing in the foregoing sections shall be construed—

(a) to impair any security provided by, or affect the provisions of, any other enactment for the time being in force for the recovery of land-revenue or of sums recoverable as arrears of land-revenue, or

(b) to authorize the arrest of any person for the recovery of any tax payable to the corporation, commissioner, committee, board, council or person having authority over a municipality under any enactment for the time being in force.

8. When this Act has been applied to any local area which is under the administration of the Governor General in Council but which is not part of British India, an arrear of land-revenue accruing in that local area, or a sum recoverable as an arrear of land-revenue and payable to a Collector or other public officer or to a local authority in that local area, may be recovered under this Act in British India.

THE SCHEDULE.

CERTIFICATE.

(See section 3, sub-section (1).)

From

The Collector of

To

The Collector of

Dated the _____ of _____ 18 ____.

The sum of Rs. _____ is payable on account of _____ by _____, son of _____, resident of _____, who is believed (to be at _____) (to have property consisting of _____ at _____) in your district.

Subject to the provisions of the Revenue Recovery Act, 1890, the said sum is recoverable by you as if it were an arrear of land-revenue which had accrued in your own district, and you are hereby desired so to recover it and to remit it to my office at _____.

A. B.,
Collector of
533

Act No. II. of 1890.

RECEIVED THE ASSENT OF THE GOVERNOR GENERAL ON THE
14TH FEBRUARY, 1890.

*An Act to amend Acts XVII. of 1864, X. of 1865, II. of 1874
and V. of 1881.*

WHEREAS it is expedient to amend Act XVII. of 1864 (*An Act to constitute an Office of Official Trustee*), the Indian Succession Act, 1865, the Administrator General's Act, 1874, and the Probate and Administration Act, 1881; It is hereby enacted as follows:—

Act XVII. of 1864.

Addition to section 1, Act XVII., 1864.

1. In section 1 of Act XVII. of 1864, before the definition of the expression "High Court", the following shall be inserted, namely:—

"The word 'Government' shall mean, in relation to the Presidency of Fort William in Bengal, the Governor General in Council; in relation to the Presidency of Fort St. George, the Governor of Fort St. George in Council; and, in relation to the Presidency of Bombay, the Governor of Bombay in Council:"

Insertion of new section after section 1, Act XVII., 1864.

2. After section 1 of the said Act the following shall be inserted, namely:—

"2. In this Act references to the Presidency of Fort William in Bengal, the Presidency of Fort St. George and the Presidency of Bombay shall, as regards all persons for whom the Governor General in Council has for the time being power to make laws and regulations, be read as references to the Presidency of Bengal, the Presidency of Madras and the Presidency of Bombay, respectively, as those expressions are severally defined in the law for the time being in force relating to the office and duties of Administrator General."

Substitution of new section for section 5.

3. For section 5 of the said Act the following shall be substituted, namely:—

Appointment, suspension and removal of Official Trustees.

"5. Every Official Trustee appointed under this Act shall be appointed and may be suspended or removed from his office by the Government."

Amendment of section 6, Act XVII., 1864.

4. In section 6 of the said Act, for the words "Chief Justice by whom he is appointed" the word "Government" shall be substituted.

5. For the portion of section 7 of the said Act beginning with the words

Amendment of section 7, Act XVII., 1864. "It shall be lawful for the Chief Justice of the High Court" and ending with the words "it shall be lawful for the Chief Justice to appoint some person to officiate as Official Trustee" the following shall be substituted, namely :—

"It shall be lawful for the Government from time to time to grant leave of absence to the Official Trustee, but subject always to such and the like rules as may be for the time being in force as to leave of absence of officers attached to the High Court. Whenever any Official Trustee shall obtain leave of absence, it shall be lawful for the Government to appoint some person to officiate as Official Trustee,".

Addition to section 11, Act XVII., 1864.

6. To section 11 of the said Act the following shall be added, namely :—

"Provided that the High Court, by its order appointing the Official Trustee to be trustee of such property, may, for special reasons to be recorded by the Court, direct that the Official Trustee shall be entitled by way of remuneration, in respect of the capital moneys, sums and rents aforesaid, or any of them, to a commission at rates or a rate to be specified in the order and exceeding the rates or rate hereinbefore in this section prescribed."

Addition of sections to Act XVII., 1864.

7. To the said Act, after section 32, the following shall be added, namely :—

Compliance with requisitions for returns. "33. The Official Trustee shall comply with such requisitions as may be made by the Government for returns and statements, in such form and manner as the Government may deem proper.

"34. (*Relates to Bengal.*)

8. Every person holding the office of Official Trustee at the commencement of this Act shall be deemed to have been appointed under Act XVII. of 1864 as amended by this Act.

Official Trustees holding office at commencement of this Act.

The Indian Succession Act, 1865.

Addition of new section after section 326, Act X., 1865.

9. After section 326 of the Indian Succession Act, 1865, the following shall be inserted, namely :—

Transfer of assets from British India to executor or administrator in country of domicile for distribution. "326A. Where a person not having his domicile in British India has died leaving assets both in British India and in the country in which he had his domicile at the time of his death, and there have been a grant of probate or letters of administration in British India with respect to the assets there and a grant of administration in the country of domicile with respect to the assets in that country, the

executor or administrator, as the case may be, in British India, after having given such notices as are mentioned in section 320 and after having discharged, at the expiration of the time therein named, such lawful claims as he knows of, may, instead of himself distributing any surplus or residue of the deceased's property to persons residing out of British India who are entitled thereto, transfer, with the consent of the executor or administrator, as the case may be, in the country of domicile, the surplus or residue to him for distribution to those persons."

The Administrator General's Act, 1874.

10. In clause (b) of the definition of the expression "Presidency of Bengal" in section 3 of the Administrator General's Act, 1874, the word "Burma" shall be substituted for the words "British Burma", and to clause (a) of the definition of the expression "Presidency of Bombay" in the same section of that Act the words "and under the administration of the Chief Commissioner of British Baluchistan" shall be added.

11. (1) For the first paragraph of section 37 of the said Act, as amended by section 5 of the Administrator General's Act, 1881, beginning with the words "If in cases falling within section 36" and ending with the words "as if such letters had been granted to him," the following shall be substituted, namely:—

"If, in cases falling within section 36, no person claiming otherwise than as a creditor to be entitled to a share of the effects of the deceased obtains, within three months, a certificate from the Administrator General under the same section, or letters of administration to the estate and effects of the deceased, and such deceased was not a Hindu, Muhammadan, Parsi or Buddhist, or exempted under the Indian Succession Act, 1865, section 332, from the operation of that Act, the Administrator General may administer the estate and effects without letters of administration, in the same manner as if such letters had been granted to him;".

(2) The portion of section 5 of the Administrator General's Act, 1881, beginning with the words "and in section 37 of the same Act" and ending with the words "from the operation of that Act" is hereby repealed.

Addition of new section after section 41, Act II., 1874.

12. After section 41 of the said Act the following shall be inserted, namely:—

"41A. Where a person not having his domicile in British India has died leaving assets both in British India and in the country in which he had his domicile at the time of his death, and proceedings for the administration of his estate with respect to

Transfer of certain assets from British India to executor or administrator in country of domicile for distribution.

assets in British India have been taken under section 36 or section 37, and there has been a grant of administration in the country of domicile with respect to the assets in that country, the holder of the certificate granted under section 36 or section 37, or the Administrator General, as the case may be, after having given such notices as the High Court may by any general rule to be made from time to time prescribe, for creditors and others to send in to him their claims against the estate of the deceased, and after having discharged, at the expiration of the time therein named, such lawful claims as he knows of, may, instead of himself distributing any surplus or residue of the deceased's property to persons residing out of British India who are entitled thereto, transfer, with the consent of the executor or administrator, as the case may be, in the country of domicile, the surplus or residue to him for distribution to those persons."

Addition to section 64, Act II., 1874.

13. To section 64 of the said Act the following shall be added, namely:—

"The District Judge may cause to be paid out of any property of which he or such officer has charge, or out of the proceeds of such property or of any part thereof, such sums as may appear to him to be necessary for all or any of the following purposes, namely:—

- (a) the payment of the expenses of the funeral of the deceased and of obtaining probate of his will or letters of administration to his estate and effects,
- (b) the payment of wages due for services rendered to the deceased within three months next preceding his death by any labourer, artisan or domestic servant, and
- (c) the relief of the immediate necessities of the family of the deceased,

and nothing in section 279, section 280 or section 281 of the Indian Succession Act, 1865, or in any other law for the time being in force with respect to rights of priority of creditors of deceased persons, shall be held to affect the validity of any payment so caused to be made."

Addition to Part VI, Act II., 1874.

14. To Part VI, and after section 66, of the said Act the following shall be added, namely:—

"67. The Administrator General shall comply with such requisitions as may be made by the Government for returns and statements, in such form and manner as the Government may deem proper."

Compliance with requisitions for returns.

15. (*Relates to Bengal*).

The Probate and Administration Act, 1881.

Addition of new section after section 145, Act V., 1881.

16. After section 145 of the Probate and Administration Act, 1881, the following shall be inserted, namely:—

“145A. Where a person not having his domicile in British India has died leaving assets both in British India and in the country in which he had his domicile at the time of his death, and there have been a grant of probate or letters of administration in British India with respect to the assets there and a grant of administration in the country of domicile with respect to the assets in that country, the executor or administrator, as the case may be, in British India, after having given such notices as are mentioned in section 139 and after having discharged, at the expiration of the time therein named, such lawful claims as he knows of, may, instead of himself distributing any surplus or residue of the deceased's property to persons residing out of British India who are entitled thereto, transfer, with the consent of the executor or administrator, as the case may be, in the country of domicile, the surplus or residue to him for distribution to those persons.”

Act No. III. of 1890.

RECEIVED THE ASSENT OF THE GOVERNOR GENERAL ON THE
21ST FEBRUARY, 1890.

An Act to amend Acts VI. and VII. of 1884.

WHEREAS it is expedient to amend the Inland Steam-vessels Act, 1884, and the Indian Steam-ships Act, 1884, in manner hereinafter appearing; It is hereby enacted as follows:—

Inland Steam-vessels Act, 1884.

1. For the definition of “inland water” in section 5, clause (3), of the Inland Steam-vessels Act, 1884, the following shall be substituted, namely:—
Amendment of section 5 (3), Act VI., 1884.

“(3) ‘inland water’ means any canal, river, lake or navigable water in British India:”.

2. After section 8 of the said Act the following shall be inserted, namely:—
Insertion of new section after section 8.

“8A. Before a survey under this Act is commenced, the owner or master of the steam-vessel to be surveyed shall pay to such officer as the Local Government, from time to time, appoints in this behalf—
Fees in respect of surveys.

(a) a fee calculated on the tonnage of the steam-vessel according to the rates in the second schedule hereto annexed, or according to any other prescribed rates; and,

(b) when the survey is to be made in any place of survey other than Calcutta, Madras, Bombay or Rangoon, such additional fee in respect of the expense (if any) of the journey of the surveyor to the place as the Local Government, from time to time, by notification in the official Gazette, directs."

Repeal of part of section 10
(3), Act VI., 1884.

3. In section 10, sub-section (3), of the said Act the words "in addition to the fee payable for the certificate" are hereby repealed. *17/11/22U*

Amendment of, and addition
to, section 11, Act VI., 1884.

4. (1) In section 11, sub-section (1), of the said Act the words "fees and other" are hereby repealed. *do.*

(2) To ~~the same~~ ^{the} section ^{11 of the said Act} the following sub-section shall be added,³ namely:— *do. 12(2)*

"(4) The Local Government may, from time to time, delegate,—

(a) with the previous sanction of the Governor General in Council, to any person, by name or as holding an office, the function, assigned to the Local Government by sub-section (1), of granting a certificate of survey under that sub-section;

(b) of its own authority, to any person, by name or as holding an office, the function, assigned to the Local Government by sub-section (3), of causing notice to be given of a certificate of survey being ready for delivery:

Provided, with respect to clause (a) of this sub-section, that no delegation of the function mentioned in that clause shall be construed to authorize the grant of a certificate of survey by the surveyor who gave the declaration of survey under section 9."

Repeal of section 12, Act VI.,
1884.

5. Section 12 of the said Act is hereby³ repealed. *do. 12(1)*

6. In section 17 of the said Act, between the word "which" and the word "granted," in both places where the expression "which granted" occurs, the words "or whose delegate" shall be inserted.

Amendment of section 19, Act
VI., 1884.

7. In section 19, sub-section (1), of the said Act, after the words "on the application of the owner or master," the words "and the payment by him of such fee, not exceeding twice the amount of the fee for the previous survey, as the Local Government may require," shall be inserted.

8. In section 21, sub-section (2), clause (d), of the said Act, for the words "for certificates of survey" the words "in respect of surveys" shall be substituted.

Amendment of section 21, Act VI., 1884.

Insertion of new section after section 25, Act VI., 1884.

9. After section 25 of the said Act the following shall be inserted, namely:—

"25A. (1) The Local Government may in its discretion grant without

Grant of certificates of service.

examination to any person who has served as a master, or as an engineer, or as an engine-driver, of an inland steam-vessel before the first day of April, 1890, a certificate of service to the effect that he may act as a first-class or second-class master, or as an engineer, or as an engine-driver, as the case may be, of an inland steam-vessel.

(2) A certificate of service so granted shall have the same effect as a certificate of competency granted under this Act after examination."

Amendment of section 26, Act VI., 1884.

10.² In section 26 of the said Act the words "or service" shall be inserted after the word "competency".

Addition to section 29, Act VI., 1884.

11.³ To section 29 of the said Act the following shall be added, namely:—

"The Local Government may also make rules with respect to the grant of certificates of service under this Act, and may by such rules—

(a) fix the fees to be paid for such certificates, and

(b) prescribe the form in which such certificates are to be framed and the manner in which the copy of the certificate which is kept by the Local Government is to be recorded."

Addition to Chapter VII., Act VI., 1884.

12. To Chapter VII of the said Act the following shall be added, namely:—

"51A. (1) The Local Government may also make rules for the pro-

Power for Local Government to make rules for protection of passengers.

tection of passengers in inland steam-vessels, and may by such rules require, among other matters, a sufficient quantity of fresh water to be provided free of charge in such vessels for the use of passengers, and the prices of passenger-tickets to be printed or otherwise denoted on such tickets.

(2) Any rule under this section may contain a provision that any owner, master or passenger committing a breach of it shall be punished with fine which may extend to fifty rupees."

Insertion of new section after section 54, Act VI., 1884.

13. After section 54 of the said Act the following shall be inserted, namely:—

“54A. If an inland steam-vessel has on board thereof or on or in any part thereof a number of passengers which is greater than the number of passengers set forth in the certificate of survey as the number which the vessel or the part thereof is, in the judgment of the surveyor, fit to carry, the owner and master shall, for every passenger over and above that number, be each liable to a fine which may extend to ten rupees.”

Amendment of heading to second schedule, Act VI., 1884.

14. In the second schedule to the said Act, for the words and figures “See section 12” the words, figure and letter “See section 8A” shall be substituted.

Indian Steam-ships Act, 1884.

Insertion of new section after section 10, Act VII., 1884.

15. After section 10 of the said Act the following shall be inserted, namely :—

“10A. Before a survey under this Act is commenced, the owner or master of the steam-ship to be surveyed shall pay to such officer as the Local Government, from time to time, appoints in this behalf—

- (a) a fee calculated on the tonnage of the steam-ship according to the rates in the schedule hereto annexed or according to any other prescribed rates, and
- (b) when the survey is to be made in any port of survey other than Calcutta, Madras, Bombay or Rangoon, such additional fee, in respect of the expense (if any) of the journey of the surveyor to the port, as the Local Government, from time to time, by notification in the official Gazette, directs.”

Repeal of part of section 12 (3), Act VII., 1884.

16. In section 12, sub-section (3), of the ¹ *XII/91 A.S.(1) & 5d I.P.* said Act, the words “in addition to the fee payable for the certificate” are hereby repealed.

Amendment of, and addition to, section 13, Act VII., 1884.

17. (1) ² In section 13, sub-section (1), of ^{40. "} the said Act the words “fees and other” are hereby repealed.

(2) To ³ ~~the same~~ ^{13 9/16 said Act} section the following sub-section shall be added, ^{3 do 1.2(2) 10th 11 P.} namely :—

“(4) The Local Government may, from time to time, delegate,—

- (a) with the previous sanction of the Governor General in Council, to any person, by name or as holding an office, the function, assigned to the Local Government by sub-section (1), of granting a certificate of survey under that sub-section;

(b) of its own authority, to any person, by name or as holding an office, the function, assigned to the Local Government by sub-section (3), of causing notice to be given of a certificate of survey being ready for delivery :

Provided, with respect to clause (a) of this sub-section, that no delegation of the function mentioned in that clause shall be construed to authorize the grant of a certificate of survey by the surveyor who gave the declaration of survey under section 11."

Repeal of section 14, Act VII., 1884.

18. Section 14 of the said Act is hereby repealed.

19. In section 19 of the said Act, between the word "which" and the word "granted," in both the places where the expression "which granted" occurs, the words "or whose delegate" shall be inserted.

Amendment of section 19, Act VII., 1884.

20. In section 21, sub-section (1), of the said Act, after the words "on the application of the owner or master," the words "and the payment by him of such fee, not exceeding twice the amount of the fee for the previous survey, as the Local Government may require," shall be inserted.

Amendment of section 21, Act VII., 1884.

Amendment of section 24, Act VII., 1884.

21. In section 24, sub-section (2), clause (d), for the words "for certificates of survey" the words "in respect of surveys" shall be substituted.

Amendment of heading to second schedule, Act VII., 1884.

22. In the schedule to the said Act, for the words and figures "See section 14" the words, figures and letter "See section 10A" shall be substituted.

Act No. IV. of 1890. (*Central Provinces.*)

Act No. V. of 1890.

RECEIVED THE ASSENT OF THE GOVERNOR GENERAL ON THE
28TH FEBRUARY, 1890.

An Act to amend the Indian Forest Act, 1878, and the Burma Forest Act, 1881.

WHEREAS it is expedient to amend the Indian Forest Act, 1878, and the Burma Forest Act, 1881; It is hereby enacted as follows:—

Title and commencement. 1. (1) This Act may be called the Forest Act, 1890: and

(2) It shall come into force at once.

Indian Forest Act, 1878.

Amendment of section 2, Act VII., 1878.

2. (1) For the definition of "Tree" in section 2 of the Indian Forest Act, 1878, the following shall be substituted, namely:—

"'Tree' includes palms, bamboos, stumps, brushwood and canes:"

(2) For the definition of "Timber" in the same section the following shall be substituted, namely:—

"'Timber' includes trees when they have fallen or have been felled, and all wood, whether cut up or fashioned or hollowed out for any purpose or not:"

(3) For the definition of "Forest-produce" in the same section the following shall be substituted, namely:—

"'Forest-produce' includes—

(a) the following, whether found in, or brought from, a forest or not, that is to say:—

timber, charcoal, caoutchouc, catechu, wood-oil, resin, natural varnish, bark, lac, mahua flowers and myrabolams, and

(b) the following when found in, or brought from, a forest, that is to say:—

(i) trees and leaves, flowers and fruits, and all other parts or produce not hereinbefore mentioned of trees,

(ii) plants not being trees (including grass, creepers, reeds and moss), and all parts or produce of such plants,

(iii) wild animals, and skins, tusks, horns, bones, silk, cocoons, honey and wax, and all other parts or produce of animals, and

(iv) peat, surface-soil, rock, and minerals (including limestone, laterite, mineral oils and all products of mines or quarries):".

Amendment of section 4, Act VII., 1878.

3. For clause (b) of section 4 of the said Act the following shall be substituted, namely:—

"(b) specifying as nearly as possible the situation and limits of such land; and".

Addition to section 5, Act VII., 1878.

4. To section 5 of the said Act the words "except in accordance with rules prescribed by the Local Government" shall be added.

Amendment of section 6, Act VII., 1878.

5. For clause (a) of section 6 of the said Act the following shall be substituted, namely:—

"(a) specifying as nearly as possible the situation and limits of the proposed forest;".

Addition of new section after section 9, Act VII., 1878.

“9A. (1) In the case of a claim relating to the practice of shifting cultivation, the Forest-Settlement-officer shall record a statement setting forth the particulars of the claim and of any local rule or order under which the practice is allowed or regulated, and submit the statement to the Local Government together with his opinion as to whether the practice should be permitted or prohibited wholly or in part.

(2) On receipt of the statement and opinion the Local Government may make an order permitting or prohibiting the practice wholly or in part.

(3) If such practice is permitted wholly or in part, the Forest-Settlement-officer may arrange for its exercise—

(a) by altering the limits of the land under settlement so as to exclude land of sufficient extent, of a suitable kind, and in a locality reasonably convenient for the purposes of the claimants, or

(b) by causing certain portions of the land under settlement to be separately demarcated, and giving permission to the claimants to practise shifting cultivation therein under such conditions as he may prescribe.

All arrangements made under this sub-section shall be subject to the previous sanction of the Local Government.

(4) The practice of shifting cultivation shall in all cases be deemed a privilege subject to control, restriction and abolition by the Local Government.”

Amendment of section 25, Act VII., 1878.

7. For clause (b) of section 25 of the said Act the following shall be substituted namely:—

“(b) sets fire to a reserved forest, or, in contravention of any rules made by the Local Government, kindles any fire, or leaves any fire burning, in such manner as to endanger such a forest;”.

8. (1) In the heading of Chapter VII of the said Act, for the words

Amendment of Chapters VII and VIII, Act VII., 1878.

“OF THE DUTY ON TIMBER” the words “OF THE DUTY ON TIMBER AND OTHER FOREST-PRODUCE” shall be substituted.

(2) In section 39 of the said Act, after the word “timber”, in both places where the word occurs, the words “or other forest-produce” shall be inserted.

(3) In clause (a) of section 41 of the said Act, for the words “and other” the words “or other” shall be substituted.

Addition to section 41, Act VII., 1878.

(4) To section 41 of the said Act the following shall be added, namely :—

“The Local Government may direct that any rule made under this section shall not apply to any specified class of timber or other forest-produce or to any specified local area.”

Amendment of section 47, Act VII., 1878.

9. In section 47 of the said Act the words “within three months” shall be substituted for the words “within two months”.

Addition to section 48, Act VII., 1878.

10. To section 48 of the said Act, after the word “encumbrances” the words “not created by him” shall be added.

Amendment of section 56, Act VII., 1878.

11. In section 56 of the said Act, for the words “whom he deems to be entitled to the same” the words “whom the Magistrate deems to be entitled to the same” shall be substituted.

Amendment of section 63, Act VII., 1878.

12. In section 63 of the said Act, after the words “before the Magistrate having jurisdiction in the case”, the words “or to the officer in charge of the nearest police-station” shall be added.

Amendment of section 67, Act VII., 1878.

13. (1) For section 67 of the said Act the following shall be substituted, namely :—

“67. (1) The Local Government may, from time to time, by notification in the official Gazette, empower a Forest-officer by name, or as holding an office,—

Power to compound offences.

(a) to accept from any person against whom a reasonable suspicion exists that he has committed any forest-offence, other than an offence specified in section 61 or section 62, a sum of money by way of compensation for the offence which such person is suspected to have committed, and,

(b) when any property has been seized as liable to confiscation, to release the same on payment of the value thereof as estimated by such officer.

(2) On the payment of such sum of money, or such value, or both, as the case may be, to such officer, the suspected person, if in custody, shall be discharged, the property, if any, seized shall be released, and no further proceedings shall be taken against such person or property.

(3) A Forest-officer shall not be empowered under this section unless he is a Forest-officer of a rank not inferior to that of a ranger and is in receipt of a monthly salary amounting to at least one hundred rupees, and the sum of money accepted as compensation under sub-section (1), clause (a), shall in no case exceed the sum of fifty rupees.”

Addition of new section after section 83, Act VII., 1878.

14. After section 83 of the said Act the following shall be added, namely :—

“84. When any person, in compliance with any rule under this Act, binds himself by any instrument to perform any duty or act, or covenants by any instrument that he, or that he and his servants and agents, will abstain from any act, the whole sum mentioned in such instrument as the amount to be paid in case of a breach of the conditions thereof may, notwithstanding anything in section 74 of the Indian Contract Act, 1872, be recovered from him in case of such breach as if it were an arrear of land-revenue.”

15—22 (relate to Burma.)

Act No. VI. of 1890.

RECEIVED THE ASSENT OF THE GOVERNOR GENERAL ON THE
7TH MARCH, 1890.

An Act to provide for the Vesting and Administration of Property held in trust for charitable purposes.

WHEREAS it is expedient to provide for the vesting and administration of property held in trust for charitable purposes; It is hereby enacted as follows :—

Title, extent and commencement.

1. (1) This Act may be called the Charitable Endowments Act, 1890.

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(2) It extends to the whole of British India, inclusive of ~~Upper Burma~~ and British Baluchistan; and

(3) It shall come into force on the first day of October, 1890.

2. In this Act “charitable purpose” includes relief of the poor, education, medical relief and the advancement of any other object of general public utility, but does not include a purpose which relates exclusively to religious teaching or worship.

Definition.

3. (1) The Governor General in Council may appoint an officer of the Government by the name of his office to be Treasurer of Charitable Endowments for the territories subject to any Local Government.

Appointment and incorporation of Treasurer of Charitable Endowments.

(2) Such Treasurer shall, for the purposes of taking, holding and transferring moveable or immoveable property under the authority of this Act, be a corporation sole by the name of the Treasurer of Charitable Endow-

ments for the territories subject to the Local Government, and, as such Treasurer, shall have perpetual succession and a corporate seal, and may sue and be sued in his corporate name.

4. (1) Where any property is held or is to be applied in trust for a charitable purpose, the Local Government, if it thinks fit, may, on application made as herein-after mentioned, and subject to the other provisions of this section, order, by notification in the official Gazette, that the property be vested in the Treasurer of Charitable Endowments on such terms as to the application of the property or the income thereof as may be agreed on between the Local Government and the person or persons making the application, and the property shall thereupon so vest accordingly.

(2) When any property has vested under this section in a Treasurer of Charitable Endowments, he is entitled to all documents of title relating thereto.

(3) A Local Government shall not make an order under sub-section (1) for the vesting in a Treasurer of Charitable Endowments of any securities for money, except the following, namely :—

- (a) promissory notes, debentures, stock and other securities of the Government of India, or of the United Kingdom of Great Britain and Ireland ;
- (b) bonds, debentures and annuities charged by the Imperial Parliament on the revenues of India ;
- (c) stock or debentures of, or shares in, Railway or other Companies, the interest whereon has been guaranteed by the Secretary of State for India in Council ;
- (d) debentures or other securities for money issued by or on behalf of any local authority in exercise of powers conferred by an Act of a legislature established in British India ;
- (e) a security expressly authorized by any order which the Governor General in Council may make in this behalf.

(4) An order under this section vesting property in a Treasurer of Charitable Endowments shall not require or be deemed to require him to administer the property, or impose or be deemed to impose upon him the duty of a trustee with respect to the administration thereof.

5. (1) On application made as hereinafter mentioned, and with the concurrence of the person or persons making the application, the Local Government, if it thinks fit, may settle a scheme for the administration of any property which has been or is to be vested in the Treasurer of Charitable Endowments, and may in such scheme appoint, by name or office, a person or persons, not being or including such Treasurer, to administer the property.

Schemes for administration of property vested in the Treasurer.

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(2) On application made as hereinafter mentioned, and with the concurrence of the person or persons making the application, the Local Government may, if it thinks fit, modify any scheme settled under this section or substitute another scheme in its stead.

(3) A scheme settled, modified or substituted under this section shall, subject to the other provisions of this section, come into operation on a day to be appointed by the Local Government in this behalf, and shall remain in force so long as the property to which it relates continues to be vested in the Treasurer of Charitable Endowments or until it has been modified or another such scheme has been substituted in its stead.

(4) Such a scheme, when it comes into operation, shall supersede any decree or direction relating to the subject-matter thereof in so far as such decree or direction is in any way repugnant thereto, and its validity shall not be questioned in any Court, nor shall any Court give, in contravention of the provisions of the scheme or in any way contrary or in addition thereto, a decree or direction regarding the administration of the property to which the scheme relates.

(5) In the settlement of such a scheme effect shall be given to the wishes of the author of the trust so far as they can be ascertained, and, in the opinion of the Local Government, effect can reasonably be given to them.

(6) Where a scheme has been settled under this section for the administration of property not already vested in the Treasurer of Charitable Endowments, it shall not come into operation until the property has become so vested.

Mode of applying for vesting orders and schemes.

6. (1) The application referred to in the two last foregoing sections must be made,—

(a) if the property is already held in trust for a charitable purpose, then by the person acting in the administration of the trust, or, where there are more persons than one so acting, then by those persons or a majority of them, and

(b) if the property is to be applied in trust for such a purpose, then by the person or persons proposing so to apply it.

(2) For the purposes of this section the executor or administrator of a deceased trustee of property held in trust for a charitable purpose shall be deemed to be a person acting in the administration of the trust.

Exercise by Governor General in Council of powers of Local Government.

7. (1) The Governor General in Council may exercise all or any of the powers conferred on the Local Government by sections 4 and 5.

(2) When the Governor General in Council has signified to the Local Government his intention of exercising any of those powers with respect to any property, that Government shall not, without his previous sanction, exercise them with respect thereto.

8. (1) Subject to the provisions of this Act, a Treasurer of Charitable Endowments shall not, as such Treasurer, act in the administration of any trust whereof any Bare trusteeship of Treasurer. of the property is for the time being vested in him under this Act.

(2) Such Treasurer shall keep a separate account of each property for the time being so vested in so far as the property consists of securities for money, and shall apply the property or the income thereof in accordance with the provision made in that behalf in the vesting order under section 4 or in the scheme, if any, under section 5, or in both those documents.

(3) In the case of any property so vested other than securities for money, such Treasurer shall, subject to any special order which he may receive from the authority by whose order the property became vested in him, permit the persons acting in the administration of the trust to have the possession, management and control of the property, and the application of the income thereof, as if the property had been vested in them.

9. A Treasurer of Charitable Endowments shall cause to be published annually in the local official Gazette, at such time as the Local Government may direct, a list of all properties for the time being vested in him under this Act and an abstract of all accounts kept by him under sub-section (2) of the last foregoing section. Annual publication of list of properties vested in Treasurer.

10. (1) A Treasurer of Charitable Endowments shall always be a sole trustee, and shall not, as such Treasurer, take or hold any property otherwise than under the provisions of this Act, or, subject to those provisions, transfer any property vested in him except in obedience to a decree divesting him of the property, or in compliance with a direction in that behalf issuing from the authority by whose order the property became vested in him. Limitation of functions and powers of Treasurer.

(2) Such a direction may require the Treasurer to sell or otherwise dispose of any property vested in him, and, with the sanction of the authority issuing the direction, to invest the proceeds of the sale or other disposal of the property in any such security for money as is mentioned in section 4, sub-section (3), clause (a), (b), (c), (d) or (e), or in the purchase of immoveable property.

(3) When a treasurer of Charitable Endowments is divested, by a direction of the Local Government or the Governor General in Council under this section, of any property, it shall vest in the person or persons acting in the administration thereof and be held by him or them on the same trusts as those on which it was held by such Treasurer.

11. If the office held by an officer of the Government who has been appointed to be a Treasurer of Charitable Endowments is abolished or its name is changed, the Governor General in Council may appoint the same or another officer of the Government by the name of his office to be such Treasurer, and thereupon the holder of the latter office shall be deemed for the purposes of this Act to be the successor in office of the holder of the former office.

12. If by reason of an alteration of the limits of the territories subject to a Local Government, or for any other reason, it appears to the Governor General in Council that any property vested in a Treasurer of Charitable Endowments should be vested in another such Treasurer, he may direct that the property shall be so vested, and thereupon it shall vest in that other Treasurer and his successors as fully and effectually for the purposes of this Act as if it had been originally vested in him under this Act.

13. The Governor General in Council may frame forms for any proceedings under this Act for which he considers that forms should be provided, and may make such rules consistent with this Act as he may deem expedient for—

- (a) prescribing the Local Government which is to exercise the powers conferred by this Act in the case of property which is, or is situated, in territories subject to two or more Local Governments;
- (b) prescribing the fees to be paid to the Government in respect of any property vested under this Act in a Treasurer of Charitable Endowments;
- (c) regulating the cases and mode in which schemes or any modifications thereof are to be published before they are settled or made under section 5;
- (d) prescribing the forms in which accounts are to be kept by Treasurers of Charitable Endowments, and the mode in which such accounts are to be audited; and,
- (e) generally, carrying into effect the purposes of this Act.

14. No suit shall be instituted against the Government in respect of anything done or purporting to be done under this Act, or in respect of any alleged neglect or omission to perform any duty devolving on the Government under this Act, or in respect of the exercise of, or the failure to exercise, any power conferred by this Act on the Government, nor shall any suit be instituted against a Treasurer of Charitable Endowments except for divesting him of property on the ground of its not being subject to a trust

for a charitable purpose, or for making him chargeable with or accountable for the loss or misapplication of any property vested in him, or the income thereof, where the loss or misapplication has been occasioned by or through his wilful neglect or default.

15. Nothing in this Act shall be construed to impair the operation of section 111 of the Statute 53 George III., Chapter 155, or of any other enactment for the time being in force, respecting the authority of an Advocate General at a presidency to act with respect to any charity, or of sections 8, 9, 10 and 11 of Act No. XVII. of 1864 (*an Act to constitute an Office of Official Trustee*) respecting the vesting of property in trust for a charitable purpose in an Official Trustee.

16. A Local Government shall, in the exercise of its powers under this Act, be subject to the control of the General controlling authority of Governor General in Council. Governor General in Council.

Act No. VII. of 1890.

RECEIVED THE ASSENT OF THE GOVERNOR GENERAL ON THE
14TH MARCH, 1890.

An Act to enable the Comptoir National D'Escompte de Paris to sue and be sued in the name of the Chief Manager for the time being of the Indian Agencies of the said Comptoir.

WHEREAS certain persons have formed themselves into a Company at Paris for the transaction of banking business under the name of the Comptoir National D'Escompte de Paris :

And whereas the said Company was constituted and established under and by virtue of certain resolutions passed on the 3rd and 11th June, 1889, by General Meetings of Shareholders ;

And whereas by the Articles of Association of the said Company it is provided (among other things) that the said Company may continue to exist and carry on business for a term of fifty years from the first day of May, 1889 ; that the shareholders of the Company shall be responsible only to the amount of their shares respectively ; that the rights and liabilities attached to each share shall follow its transmission into whatever hands it may pass ; and that the Company may establish Agencies or Branches as well in France as in the French Colonies and abroad, such Agencies to be organized and conducted in the same manner as the Comptoir National D'Escompte itself ;

And whereas Agencies of the said Company have been recently established in Calcutta and in Bombay ;

And whereas on the thirtieth day of April, 1862, a Convention was concluded and signed at Paris between Her Majesty the Queen of Great Britain and Ireland and His Majesty the Emperor of the French, comprising the following articles, that is to say: "*First*—The High Contracting Parties declare that they mutually grant to all Companies and other Associations, commercial, industrial or financial, constituted and authorized in conformity with the laws in force in either of the two countries, the power of exercising all their rights, and of appearing before the tribunals, whether for the purpose of bringing an action or for defending the same, throughout the dominions and possessions of the other Power, subject to the sole condition of conforming to the laws of such dominions and possessions. *Second*—It is agreed that the stipulations of the preceding article shall apply as well to Companies and Associations constituted and authorized previously to the signature of the present Convention as to those which may subsequently be so constituted and authorized. *Third*—The present Convention is concluded without limit as to duration. Either of the High Powers shall, however, be at liberty to terminate it by giving to the other a year's previous notice. The two High Powers, moreover, reserve to themselves the power to introduce into the Convention, by common consent, any modifications which experience may show to be desirable";

And whereas it is desirable that effect should be given to the said Convention so far as the Comptoir National D'Escompte de Paris and its Agencies now or hereafter established in British India are concerned;

It is hereby enacted as follows:—

Title, extent and commencement.

1. (1) This Act may be called the Comptoir National D'Escompte de Paris Act, 1890.

(2) It extends to the whole of British India; and

(3) It shall come into force at once.

2. In this Act, unless there is something repugnant in the subject or context, the expressions "Chief Manager of the Agencies in British India of the said Comptoir" and "Chief Manager" include any person for the time being acting as Chief Manager of the said Agencies in British India of the Comptoir National D'Escompte de Paris, or being or acting as Manager of such one of the same Agencies as may be situate within the jurisdiction of the Court in which the suit or proceeding mentioned in any of the sections of this Act may be instituted or carried on.

Definition.

3. On and from the commencement of this Act, all suits and other proceedings whatever, for any injury or wrong done to any moveable or immoveable property of the said Comptoir, in whomsoever the same may for the time being be vested, whether in the Suits by or against Comptoir to be instituted in name of Chief Manager and not to abate on his death or removal.

said Comptoir or in some person or persons in trust for the said Comptoir, or upon or in respect of any present liability to the said Comptoir, or upon any bonds, covenants, contracts or agreements which already have been or hereafter shall be given to or entered into with the said Comptoir, or to or with any person whomsoever in trust for the said Comptoir, or wherein the said Comptoir is or shall be interested, and also all instruments and petitions to found any adjudication of insolvency in any Court against any person indebted to the said Comptoir, and liable to have been made insolvent by the laws now or at any time hereafter in force relating to insolvents in British India, and generally all other proceedings whatsoever to be commenced or carried on by or on behalf of the said Comptoir, or wherein the said Comptoir is or shall be interested against any person, whether such person is or shall then be a shareholder or partner of or in the said Comptoir or not, shall and lawfully may be commenced and prosecuted in the name of the person who shall be the Chief Manager of the Agencies in British India of the said Comptoir at the time such suit or proceeding shall be commenced, as the nominal plaintiff or petitioner for or on behalf of the said Comptoir, and all suits and proceedings, as well for subsisting as future accruing claims, debts or demands to be commenced against the said Comptoir by any person, whether such person is or shall then be a shareholder or partner of or in the said Comptoir or not, shall be commenced and prosecuted against the Chief Manager as the nominal defendant or respondent for and on behalf of the said Comptoir, and the death, removal, resignation or any other act of such Chief Manager, or his bankruptcy or insolvency, shall not abate or prejudice any suit or other proceeding commenced under this Act, but the same may be continued, prosecuted and carried on or defended in the name of any other the Chief Manager.

4. On and from the commencement of this Act, in all criminal pro-

In criminal proceedings, property of Comptoir to be describable as property of Comptoir or Chief Manager.

ceedings instituted or carried on by or on behalf of the said Comptoir, for fraud or injury upon or against the said Comptoir, or for any offence whatever relating to any money,

notes, bills, effects, securities or any moveable or immoveable property of the said Comptoir, or for any other offence against the said Comptoir, it shall be lawful to state such money, notes, bills, effects and securities, and other moveable and immoveable property, in whomsoever the same may be vested, whether in the said Comptoir, or in some person or persons in trust for the said Comptoir, to be the money, notes, bills, effects and securities or property of the said Comptoir, or of the Chief Manager of the Agencies in British India of the said Comptoir; and any offence committed with intent to injure or defraud the said Comptoir shall and lawfully may in such proceedings be said to have been committed with intent to injure or defraud the said Comptoir, or such Chief Manager, and any offender may thereupon be lawfully convicted of any such offence, and in all other proceedings, in which, before

the commencement of this Act, it would have been necessary to state the names of the persons composing the said Comptoir, it shall be lawful and sufficient to state the name of such Chief Manager; and the death, resignation or removal of such Chief Manager shall not abate or render defective, or in any wise affect or prejudice, such criminal proceedings.

5. No suit which may be commenced in any Court in British India

Suit against the Comptoir on contract not to be defeated because plaintiff is a partner.

against the said Comptoir, or the Chief Manager of the Agencies in British India of the said Comptoir, upon or arising out of any contract entered into by or on behalf of the said Comptoir, shall be in anywise affected or defeated by reason of the plaintiff therein, or of any other person who may be in anywise interested in such suit, being a shareholder or partner of or in the said Comptoir; but any shareholder or partner of or in the said Comptoir shall have the same right of suit and remedy to be proceeded in and enforced in the same manner against the said Comptoir or such Chief Manager upon any contract, and upon and for any debt, damage or demand whatsoever, which he might have had if he had been a stranger, and not a shareholder or partner of or in the said Comptoir.

6. No suit commenced by virtue of this Act by or on behalf of the said

Suit by Comptoir on contract not to be defeated because defendant is a partner.

Comptoir in the name of the Chief Manager, upon or arising out of any contract whatsoever, entered into by or on behalf of the said Comptoir, or for the recovery of any debt, damage or demand whatsoever due or owing to the said Comptoir, or for any other cause or any other account, shall be in anywise affected or defeated by or by reason of the defendant therein, or any person or persons who may be in anywise interested in such suit, being a shareholder or partner of or in the said Comptoir, but the said Comptoir shall and may have the same right of suit and remedy to be proceeded in and enforced in the same manner against any shareholder or partner of or in the said Comptoir, either alone or jointly with any other person, upon any contract, and upon and for any debt, damage or demand whatsoever, which the said Comptoir might have had if such cause of suit had arisen with a stranger, and not with a shareholder or partner of or in the said Comptoir.

7. The Chief Manager of the Agencies in British India of the said

Chief Manager to cause a memorial to be enrolled containing certain particulars.

Comptoir shall have an office for the transaction of the business of the Comptoir. He shall cause a memorial, in the form and to the effect set forth in Schedule A, or as near thereto as the circumstances of the case will admit of, verified by a declaration in writing made by him before a Judge of the High Court of Judicature within the jurisdiction of which his office is situated, to be enrolled amongst the records of the said High Court. Such memorial shall, prior to being enrolled, be

signed by the Chief Manager, and shall be accompanied by, or have annexed thereto, or endorsed thereon, copies of the resolutions, notarial acts, articles and other instruments under which the said Comptoir is established, and copies of the various rules under which the business of the said Comptoir is conducted. The memorial shall set forth the situation of the office of the Chief Manager, and of every other office and place in British India, in or at which the business of the said Comptoir is carried on: and it shall contain a statement of the amount both of the nominal and of the paid-up capital, the number of shares into which the capital is divided, the amount of each share, and the amount of capital (if any) which the said Comptoir shall have set aside for its working capital in British India, and if the last-mentioned capital is other than money, then a statement of how it stands invested, and in whose name.

8. No memorial shall be enrolled unless the authority of the Chief Manager by whom it is signed, and the copies of the resolutions, notarial acts, articles and other instruments accompanying the memorial, shall be authenticated by the signature and seal of a notary public in France, and countersigned by Her Britannic Majesty's Consul General in Paris for the time being.

9. Whenever any new Chief Manager of the Agencies in British India of the said Comptoir shall be appointed, or any change in, or addition to, any of the facts stated in any memorial which may have been enrolled shall take place, a like memorial in the form and to the effect set forth in Schedule B, verified as aforesaid, shall, within twelve months after such appointment, change or addition shall have been made, be enrolled as aforesaid, specifying the name and description of such new Chief Manager, and containing a statement of the change or addition which may have taken place in the facts aforesaid.

10. If any declaration made for the purpose of verifying a memorial under this Act shall be false or untrue in any material particular, the person wilfully making such declaration shall be guilty of an offence within the meaning of section 199 of the Indian Penal Code.

11. Until such memorial as first hereinbefore mentioned shall have been duly verified and enrolled, no suit shall be brought by the said Comptoir under the authority of this Act, and, until the memorial by this Act required to be verified and enrolled in the event of the appointment of a new Chief Manager of the Agencies in British India of the said Comptoir shall have been duly verified and enrolled, the person whose name shall appear in the last

memorial which shall have been duly verified and enrolled shall be liable to all such suits and executions upon judgment or decree and other proceedings under this Act, and in the same manner, as if he had not ceased to be such Chief Manager, and as if no new Chief Manager had been appointed.

12. An examined copy of every memorial enrolled pursuant to this Act, certified to be a true copy by and under the hand and signature of a Registrar for the time being of the High Court of Judicature in which the same shall have been enrolled, shall be received in evidence as proof of the contents of such memorial; and proof shall not be required that the person by whom the memorial purports to be verified was the Chief Manager at the time of such verification.

13. Execution on every judgment, decree and order made or pronounced in any suit or proceeding in any Court in British India against the Chief Manager shall and may be issued and enforced against any property in British India belonging to the said Comptoir. All the provisions of the Code of Civil Procedure as to the attachment of property before judgment and after judgment shall in all suits against the Chief Manager have full force and effect as regards property in British India belonging to the said Comptoir. So long as the full amount recoverable by any person under any judgment, decree or order shall not have been recovered, no execution issued from any Court in British India, nor anything in this Act, shall in any way prejudice or injure the right of such person to proceed in France, under the privileges and powers reserved to British subjects by and under the said Convention of the thirtieth day of April, 1862, for the recovery of the amount unrecovered.

14. No person having or claiming to have any demand upon or against the said Comptoir shall, when the same has been so determined as to have been pleadable in bar against such person, bring more than one suit in respect of such demand; and the proceedings in any suit which may have been brought against the Chief Manager under the authority of this Act, if so determined, may be pleaded in bar of any suit in any Court in British India, for the same cause against the same or any other Chief Manager; and in case of any demand which the said Comptoir now has or hereafter may have upon or against any person, whether a shareholder of the said Comptoir or not, and which shall have been determined in any suit commenced or prosecuted by the Chief Manager, the proceedings in such suit may be pleaded in bar of any other suit, in any such Court as aforesaid, for the same demand, which may be commenced or prosecuted by the same or any other Chief Manager.

SCHEDULE A.

(See section 7.)

Memorial made the _____ day of _____ by the Chief Manager of the Agencies in British India of the Comptoir National D'Escompte de Paris, pursuant to the Comptoir National D'Escompte de Paris Act, 1890, setting forth the particulars prescribed by section 7 of the said Act.

Situation of office of Chief Manager
 Situation of other offices and places in British India
 Entire nominal capital of the Comptoir
 Paid-up capital
 Number of shares
 Amount of each share
 Amount of capital set aside for operations in British India
 Mode in which the same is invested
 Name in which the same is invested

I, A. B., Chief Manager of the Agencies in British India of the Comptoir National D'Escompte de Paris, do solemnly and sincerely declare, to the best of my knowledge and belief, that the above-written memorial is true in all respects.

(Sd.) A. B.

Declared before me, a Judge of the High Court of Judicature at _____

SCHEDULE B.

(See section 9.)

Memorial made the _____ day of _____ by the Chief Manager of the Agencies in British India of the Comptoir National D'Escompte de Paris pursuant to the Comptoir National D'Escompte de Paris Act, 1890, setting forth particulars of change or changes as prescribed by section 9 of the said Act.

Name and description of new Chief Manager,
 or

New situation of office of Chief Manager,
 or

Other change or changes.

I, C. D., Chief Manager of the Agencies in British India of the Comptoir National D'Escompte de Paris, do solemnly and sincerely declare, to the best of my knowledge and belief, that the above-written memorial is true in all respects.

(Sd.) C. D.

Declared before me, a Judge of the High Court of Judicature at _____

Act No. VIII. of 1890.

RECEIVED THE ASSENT OF THE GOVERNOR GENERAL ON THE
21ST MARCH, 1890.

THE GUARDIANS AND WARDS ACT, 1890.

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THE SCHEDULE.—ENACTMENTS REPEALED.

*An Act to consolidate and amend the law relating to
Guardian and Ward.*

WHEREAS it is expedient to consolidate and amend the law relating to guardian and ward; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Title, extent and commencement.

1. (1) This Act may be called the Guardians and Wards Act, 1890.

(2) It extends to the whole of British India, inclusive of ~~Upper Burma~~ and British Baluchistan; and

XIII/98 S. 18 (1) a
Sch. V. P. 2.

(3) It shall come into force on the first day of July, 1890.

2. (1) On and from that day the enactments mentioned in the schedule shall be repealed to the extent specified in the third column thereof.

Repeal.

(2) But all proceedings had, certificates granted, allowances assigned, obligations imposed, and applications, appointments, orders and rules made under any of those enactments shall, so far as may be, be deemed to have been respectively had, granted, assigned, imposed and made under this Act; and

(3) Any enactment or document referring to any of those enactments shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

3. This Act shall be read subject to every enactment heretofore or hereafter passed relating to any Court of Wards by the Governor General in Council or by a Governor or Lieutenant-Governor in Council; and nothing in this Act shall be construed to affect, or in any way derogate from, the jurisdiction or authority of any Court of Wards, or to take away any power possessed by any High Court established under the Statute 24 and 25 Victoria, Chapter 104 (*as Act for establishing High Courts of Judicature in India*).

Saving of jurisdiction of Courts of Wards and Chartered High Courts.

Definitions.

4. In this Act, unless there is something repugnant in the subject or context,—

(1) “minor” means a person who, under the provisions of the Indian Majority Act, 1875, is to be deemed not to have attained his majority :

(2) “guardian ” means a person having the care of the person of a minor or of his property, or of both his person and property :

(3) “ward ” means a minor for whose person or property, or both, there is a guardian :

(4) “District Court ” has the meaning assigned to that expression in the Code of Civil Procedure, and includes a High Court in the exercise of its ordinary original civil jurisdiction :

(5) “the Court ” means the District Court having jurisdiction to entertain an application under this Act for an order appointing or declaring a person to be a guardian ; and, where a guardian has been appointed or declared in pursuance of any such application, it means the Court which appointed or declared the guardian, or, in any matter relating to the person of the ward, the District Court having jurisdiction in the place where the ward for the time being ordinarily resides :

(6) “Collector ” means the chief officer in charge of the revenue-administration of a district, and includes any officer whom the Local Government, by notification in the official Gazette, may, by name or in virtue of his office, appoint to be a Collector in any local area, or with respect to any class of persons, for all or any of the purposes of this Act :

Benefit of Local Rules & Orders 1882 (1896) p. 111.

(7) “European British subject ” means an European British subject as defined in the Code of Criminal Procedure, 1882, and includes any Christian of European descent : and

(8) “prescribed ” means prescribed by rules made by the High Court under this Act.

CHAPTER II.

APPOINTMENT AND DECLARATION OF GUARDIANS.

5. (1) Where a minor is an European British subject, a guardian or guardians of his person or property, or both, may be appointed by will or other instrument to take effect on the death of the person appointing,—

(a) by the father of the minor, or,

(b) if the father is dead or incapable of acting, by the mother.

(2) Where guardians have been appointed under sub-section (1) by both parents, they shall act jointly.

6. In the case of a minor who is not an European British subject, nothing in this Act shall be construed to take away or derogate from any power to appoint a guardian of his person or property, or both, which is valid by the law to which the minor is subject.

7. (1) Where the Court is satisfied that it is for the welfare of a minor that an order should be made—

(a) appointing a guardian of his person or property, or both, or,

(b) declaring a person to be such a guardian,
the Court may make an order accordingly.

(2) An order under this section shall imply the removal of any guardian who has not been appointed by will or other instrument or appointed or declared by the Court.

(3) Where a guardian has been appointed by will or other instrument or appointed or declared by the Court, an order under this section appointing or declaring another person to be guardian in his stead shall not be made until the powers of the guardian appointed or declared as aforesaid have ceased under the provisions of this Act.

8. An order shall not be made under the last foregoing section except on the application of—

(a) the person desirous of being, or claiming to be, the guardian of the minor, or

(b) any relative or friend of the minor, or

S. 7.—Where a Court to which application has been made, under S. 3 of Act XL of 1858, for a certificate, has adjudged the applicant entitled to have one, he then substantially obtains it, although it may not be drawn up or issued at the time.—I. L. R. XVII., Calo. 247.

(c) the Collector of the district or other local area within which the minor ordinarily resides or in which he has property, or

(d) the Collector having authority with respect to the class to which the minor belongs.

9. (1) If the application is with respect to the guardianship of the person of the minor, it shall be made to the District Court having jurisdiction in the place where the minor ordinarily resides.
 Court having jurisdiction to entertain application.

(2) If the application is with respect to the guardianship of the property of the minor, it may be made either to the District Court having jurisdiction in the place where the minor ordinarily resides or to a District Court having jurisdiction in a place where he has property.

(3) If an application with respect to the guardianship of the property of a minor is made to a District Court other than that having jurisdiction in the place where the minor ordinarily resides, the Court may return the application if in its opinion the application would be disposed of more justly or conveniently by any other District Court having jurisdiction.

10. (1) If the application is not made by the Collector, it shall be by petition signed and verified in manner prescribed by the Code of Civil Procedure for the signing and verification of a plaint, and stating, so far as can be ascertained,—
 Form of application.

(a) the name, sex, religion, date of birth and ordinary residence of the minor ;

(b) where the minor is a female, whether she is married, and, if so, the name and age of her husband ;

(c) the nature, situation and approximate value of the property, if any, of the minor ;

(d) the name and residence of the person having the custody or possession of the person or property of the minor ;

(e) what near relations the minor has, and where they reside ;

(f) whether a guardian of the person or property, or both, of the minor has been appointed by any person entitled or claiming to be entitled by the law to which the minor is subject to make such an appointment ;

(g) whether an application has at any time been made to the Court or to any other Court with respect to the guardianship of the person or property, or both, of the minor, and, if so, when, to what Court and with what result ;

(h) whether the application is for the appointment or declaration of a guardian of the person of the minor, or of his property, or of both ;

- (i) where the application is to appoint a guardian, the qualifications of the proposed guardian ;
- (j) where the application is to declare a person to be a guardian, the grounds on which that person claims ;
- (k) the causes which have led to the making of the application ; and
- (l) such other particulars, if any, as may be prescribed or as the nature of the application renders it necessary to state.

(2) If the application is made by the Collector, it shall be by letter addressed to the Court and forwarded by post or in such other manner as may be found convenient, and shall state as far as possible the particulars mentioned in sub-section (1).

(3) The application must be accompanied by a declaration of the willingness of the proposed guardian to act, and the declaration must be signed by him and attested by at least two witnesses.

11. (1) If the Court is satisfied that there is ground for proceeding on the application, it shall fix a day for the hearing thereof, and cause notice of the application and of the date fixed for the hearing—

Procedure on admission of application.

(a) to be served in the manner directed in the Code of Civil Procedure on—

- (i) the parents of the minor if they are residing in British India,
 - (ii) the person, if any, named in the petition or letter as having the custody or possession of the person or property of the minor,
 - (iii) the person proposed in the application or letter to be appointed or declared guardian, unless that person is himself the applicant, and
 - (iv) any other person to whom, in the opinion of the Court, special notice of the application should be given ; and
- (b) to be posted on some conspicuous part of the court-house, and of the residence of the minor, and otherwise published in such manner as the Court, subject to any rules made by the High Court under this Act, thinks fit.

(2) The local Government may, by general or special order, require that, when any part of the property described in a petition under section 10, sub-section (1), is land of which a Court of Wards could assume the superintendence, the Court shall also cause a notice as aforesaid to be served on the Collector in whose district the minor ordinarily resides, and on every Collector in whose district any portion of the land is situate, and the Collector may cause the notice to be published in any manner he deems fit.

(3) No charge shall be made by the Court or the Collector for the service or publication of any notice served or published under sub-section (2).

12. (1) The Court may direct that the person, if any, having the custody of the minor shall produce him or cause him to be produced at such place and time and before such person as it appoints, and may make such order for the temporary custody and protection of the person or property of the minor as it thinks proper.

Power to make interlocutory order for production of minor and interim protection of person and property.

(2) If the minor is a female who ought not to be compelled to appear in public, the direction under sub-section (1) for her production shall require her to be produced in accordance with the customs and manners of the country.

(3) Nothing in this section shall authorize—

(a) the Court to place a female minor in the temporary custody of a person claiming to be her guardian on the ground of his being her husband, unless she is already in his custody with the consent of her parents, if any, or

(b) any person to whom the temporary custody and protection of the property of a minor is entrusted to dispossess otherwise than by due course of law any person in possession of any of the property.

13. On the day fixed for the hearing of the application, or as soon afterwards as may be, the Court shall hear such evidence as may be adduced in support of or in opposition to the application.

Hearing of evidence before making of order.

14 (1) If proceedings for the appointment or declaration of a guardian of a minor are taken in more Courts than one, each of those Courts shall, on being apprised of the proceedings in the other Court or Courts, stay the proceedings before itself.

Simultaneous proceedings in different Courts.

(2) If the Courts are both or all subordinate to the same High Court, they shall report the case to the High Court, and the High Court shall determine in which of the Courts the proceedings with respect to the appointment or declaration of a guardian of the minor shall be had.

(3) In any other case in which proceedings are stayed under sub-section (1), the Courts shall report the case through the Local Government to the Governor General in Council, and the Governor General in Council shall determine in which of the Courts the proceedings with respect to the appointment or declaration of a guardian of the minor shall be had.

15. (1) If the law to which the minor is subject admits of his having two or more joint guardians of his person or property, or both, the Court may, if it think fit, appoint or declare them.

Appointment or declaration of several guardians.

(2) On the death of a father, being an European British subject, who has, by will or other instrument to take effect on his death, appointed a guardian of his minor child, the Court may appoint the mother to be guardian of the child jointly with the guardian appointed by the father.

(3) On the death of a mother, being an European British subject, who during the incapacity of the father of her minor child has, by will or other instrument to take effect on her death, appointed a guardian of the child, the Court may, if the father becomes capable of acting, appoint him to be sole guardian of the child or guardian of the child jointly with the guardian appointed by the mother, as it thinks fit.

(4) Separate guardians may be appointed or declared of the person and of the property of a minor.

(5) If a minor has several properties, the Court may, if it thinks fit, appoint or declare a separate guardian for any one or more of the properties.

16. If the Court appoints or declares a guardian for any property
 Appointment or declaration of guardian for property beyond jurisdiction of the Court. situate beyond the local limits of its jurisdiction, the Court having jurisdiction in the place where the property is situate shall, on production of a certified copy of the order appointing or declaring the guardian, accept him as duly appointed or declared and give effect to the order.

17. (1) In appointing or declaring the guardian of a minor the Court shall, subject to the provisions of this section, be guided by what, consistently with the law to which the minor is subject, appears in the circumstances to be for the welfare of the minor.

Matters to be considered by the Court in appointing guardian.

(2) In considering what will be for the welfare of the minor, the Court shall have regard to the age, sex and religion of the minor, the character and capacity of the proposed guardian and his nearness of kin to the minor, the wishes, if any, of a deceased parent, and any existing or previous relations of the proposed guardian with the minor or his property.

(3) If the minor is old enough to form an intelligent preference, the Court may consider that preference.

(4) As between parents who are European British subjects adversely claiming the guardianship of the person, neither parent is entitled to it as of right, but, other things being equal, if the minor is a male of tender

S. 17. —The relations of her deceased husband are entitled to be the guardians of a Hindu widow in preference to the paternal relations. I. L. R., XVI. Calc., 584.

The natural father of a minor who has been adopted into another family is not the proper guardian when either of the adoptive parents is living and willing to act. I. R. R., III. Bom., 1.

A Hindu widow is the proper guardian of her deceased son's widow in the absence of any person claiming a preferential title to succeed to the estate of the latter. VIII. B. H. C. R., a. c. j., 31.

A Mahomedan father of the Shia sect is entitled to the custody of a daughter above the age of 7 years as against the mother. I. L. R., XIV. Calc., 615.

years or a female, the minor should be given to the mother, and if the minor is a male of an age to require education and preparation for labour and business, then to the father.

(5) The Court shall not appoint or declare any person to be a guardian against his will.

18. Where a Collector is appointed or declared by the Court in virtue of his office to be guardian of the person or property, or both, of a minor, the order appointing or declaring him shall be deemed to authorize and require the person for the time being holding the office to act as guardian of the minor with respect to his person or property, or both, as the case may be.

19. Nothing in this Chapter shall authorize the Court to appoint or declare a guardian of the property of a minor whose property is under the superintendence of a Court of Wards, or to appoint or declare a guardian of the person—

- (a) of a minor who is a married female and whose husband is not, in the opinion of the Court, unfit to be guardian of her person, or,
- (b) subject to the provisions of this Act with respect to European British subjects, of a minor whose father is living and is not, in the opinion of the Court, unfit to be guardian of the person of the minor, or
- (c) of a minor whose property is under the superintendence of a Court of Wards competent to appoint a guardian of the person of the minor.

CHAPTER III.

DUTIES, RIGHTS AND LIABILITIES OF GUARDIANS.

General.

20. (1) A guardian stands in a fiduciary relation to his ward, and, save as provided by the will or other instrument, if any, by which he was appointed, or by this Act, he must not make any profit out of his office.

(2) The fiduciary relation of a guardian to his ward extends to and affects purchases by the guardian of the property of the ward, and by the ward of the property of the guardian, immediately or soon after the ward has ceased to be a minor, and generally all transactions between them while the influence of the guardian still lasts or is recent.

S. 18.—See H. C. Civ. Circ. No. 180.

A Collector, appointed under this section, would be an officer of Government within the meaning of S. 32 of Act XIV. of 1889. Cf. I. L. R., I. Bom., 318.

31. A minor is incompetent to act as guardian of any minor except his own wife or child or, where he is the managing member of an undivided Hindu family, the wife or child of another minor member of that family.

Capacity of minors to act as guardians.

22. (1) A guardian appointed or declared by the Court shall be entitled to such allowance, if any, as the Court thinks fit for his care and pains in the execution of his duties.

Remuneration of guardian.

(2) When an officer of the Government, as such officer, is so appointed or declared to be guardian, such fees shall be paid to the Government out of the property of the ward as the Local Government, by general or special order, directs.

23. A Collector appointed or declared by the Court to be guardian of the person or property, or both, of a minor shall, in all matters connected with the guardianship of his ward, be subject to the control of the Local Government or of such authority as that Government, by notification in the official Gazette, appoints in this behalf.

Control of Collector as guardian.

Guardian of the Person.

From Living Local Rules & Orders Vol. I (1896) 542

24. A guardian of the person of a ward is charged with the custody of the ward, and must look to his support, health and education, and such other matters as the law to which the ward is subject requires.

Duties of guardian of the person.

25. (1) If a ward leaves or is removed from the custody of a guardian of his person, the Court, if it is of opinion that it will be for the welfare of the ward to return to the custody of his guardian, may make an order for his return, and for the purpose of enforcing the order may cause the ward to be arrested, and to be delivered into the custody of the guardian.

Title of guardian to custody of ward.

(2) For the purpose of arresting the ward, the Court may exercise the power conferred on a Magistrate of the first class by section 100 of the Code of Criminal Procedure, 1882.

(3) The residence of a ward against the will of his guardian with a person who is not his guardian does not of itself terminate the guardianship.

26. (1) A guardian of the person appointed or declared by the Court, unless he is the Collector or is a guardian appointed by will or other instrument, shall not, without the leave of the Court by which he was appointed or declared, remove the ward from the limits of its jurisdiction except for such purposes as may be prescribed.

Removal of ward from jurisdiction.

(2) The leave granted by the Court under sub-section (1) may be special or general, and may be defined by the order granting it.

Guardian of Property.

27. A guardian of the property of a ward is bound to deal therewith as carefully as a man of ordinary prudence would deal with it if it were his own, and, subject to the provisions of this Chapter, he may do all acts which are reasonable and proper for the realisation, protection or benefit of the property.

28. Where a guardian has been appointed by will or other instrument, his power to mortgage or charge, or transfer by sale, gift, exchange or otherwise, immoveable property belonging to his ward is subject to any restriction which may be imposed by the instrument, unless he has under this Act been declared guardian and the Court which made the declaration permits him by an order in writing, notwithstanding the restriction, to dispose of any immoveable property specified in the order in a manner permitted by the order.

29. Where a person other than a Collector, or than a guardian appointed by will or other instrument, has been appointed or declared by the Court to be guardian of the property of a ward, he shall not, without the previous permission of the Court,—

- (a) mortgage or charge, or transfer by sale, gift, exchange or otherwise, any part of the immoveable property of his ward, or
- (b) lease any part of that property for a term exceeding five years or for any term extending more than one year beyond the date on which the ward will cease to be a minor.

30. A disposal of immoveable property by a guardian in contravention of either of the two last foregoing sections is voidable at the instance of any other person affected thereby.

31. (1) Permission to the guardian to do any of the acts mentioned in section 29 shall not be granted by the Court except in case of necessity or for an evident advantage to the ward.

(2) The order granting the permission shall recite the necessity or advantage, as the case may be, describe the property with respect to which the act permitted is to be done, and specify such conditions, if any, as the Court may see fit to attach to the permission; and it shall be recorded, dated and signed by the Judge of the Court with his own hand, or, when from any cause he is prevented from recording the order with his own hand, shall be taken down in writing from his dictation and be dated and signed by him.

S. 29.—A surrender in 1871 of a mortgage which was not redeemable until 1878 was held to be an alienation of immoveable property within the meaning of S. 18 of Act XX. of 1864. P. J. 1878., p. 281.

(3) The Court may in its discretion attach to the permission the following among other conditions, namely :—

- (a) that a sale shall not be completed without the sanction of the Court;
- (b) that a sale shall be made to the highest bidder by public auction, before the Court or some person specially appointed by the Court for that purpose, at a time and place to be specified by the Court, after such proclamation of the intended sale as the Court, subject to any rules made under this Act by the High Court, directs;
- (c) that a lease shall not be made in consideration of a premium or shall be made for such term of years and subject to such rents and covenants as the Court directs;
- (d) that the whole or any part of the proceeds of the act permitted shall be paid into the Court by the guardian, to be disbursed therefrom or to be invested by the Court on prescribed securities or to be otherwise disposed of as the Court directs.

(4) Before granting permission to a guardian to do an act mentioned in section 29, the Court may cause notice of the application for the permission to be given to any relative or friend of the ward who should, in its opinion, receive notice thereof, and shall hear and record the statement of any person who appears in opposition to the application.

32. Where a guardian of the property of a ward has been appointed or declared by the Court and such guardian is not the Collector, the Court may, from time to time, by order, define, restrict or extend his powers with respect to the property of the ward in such manner and to such extent as it may consider to be for the advantage of the ward and consistent with the law to which the ward is subject.

33. (1) A guardian appointed or declared by the Court may apply by petition to the Court which appointed or declared him for its opinion, advice or direction on any present question respecting the management or administration of the property of his ward.

Right of guardian so appointed or declared to apply to the Court for opinion in management of property of ward.

(2) If the Court considers the question to be proper for summary disposal, it shall cause a copy of the petition to be served on, and the hearing thereof may be attended by, such of the persons interested in the application as the Court thinks fit.

(3) The guardian stating in good faith the facts in the petition and acting upon the opinion, advice or direction given by the Court shall be deemed, so far as regards his own responsibility, to have performed his duty as guardian in the subject-matter of the application.

Obligations on guardian of property appointed or declared by the Court.

34. Where a guardian of the property of a ward has been appointed or declared by the Court and such guardian is not the Collector, he shall,—

- (a) if so required by the Court, give a bond, as nearly as may be in the prescribed form, to the Judge of the Court to enure for the benefit of the Judge for the time being, with or without sureties, as may be prescribed, engaging duly to account for what he may receive in respect of the property of the ward ;
- (b) if so required by the Court, deliver to the Court, within six months from the date of his appointment or declaration by the Court, or within such other time as the Court directs, a statement of the immoveable property belonging to the ward, of the money and other moveable property which he has received on behalf of the ward up to the date of delivering the statement, and of the debts due on that date to or from the ward ;
- (c) if so required by the Court, exhibit his accounts in the Court at such times and in such form as the Court from time to time directs ;
- (d) if so required by the Court, pay into the Court at such time as the Court directs the balance due from him on those accounts, or so much thereof as the Court directs ; and
- (e) apply for the maintenance, education and advancement of the ward and of such persons as are dependent on him, and for the celebration of ceremonies to which the ward or any of those persons may be a party, such portion of the income of the property of the ward as the Court from time to time directs, and, if the Court so directs, the whole or any part of that property.

35. Where a guardian appointed or declared by the Court has given a bond duly to account for what he may receive in respect of the property of his ward, the Court may, on application made by petition and on being satisfied that the engagement of the bond has not been kept, and upon such terms as to security, or providing that any money received be paid into the Court, or otherwise as the Court thinks fit, assign the bond to some proper person, who shall thereupon be entitled to sue on the bond in his own name as if the bond had been originally given to him instead of to the Judge of the Court, and shall be entitled to recover thereon, as trustee for the ward, in respect of any breach thereof.

36. (1) Where a guardian appointed or declared by the Court has not given a bond as aforesaid, any person, with the leave of the Court, may, as next friend, at any time during the continuance of the minority of the ward, and upon such terms as aforesaid, institute a suit against the guardian, or, in case of his death, against his representative, for an account of what the guardian has received in respect of the property of the ward, and may recover in the suit, as trustee for the ward, such amount as may be found to be payable by the guardian or his representative, as the case may be.

Suit against guardian where administration-bond was not taken.

(2) The provisions of sub-section (1) shall, so far as they relate to a suit against a guardian, be subject to the provisions of section 440 of the Code of Civil Procedure as amended by this Act.

37. Nothing in either of the two last foregoing sections shall be construed to deprive a ward or his representative of any remedy against his guardian, or the representative of the guardian, which, not being expressly provided in either of those sections, any other beneficiary or his representative would have against his trustee or the representative of the trustee.

General liability of guardian as trustee.

Termination of Guardianship.

38. On the death of one of two or more joint guardians, the guardianship continues to the survivor or survivors until a further appointment is made by the Court.

Right of survivorship among joint guardians.

39. The Court may, on the application of any person interested, or of its own motion, remove a guardian appointed or declared by the Court, or a guardian appointed by will or other instrument, for any of the following causes, namely:—

Removal of guardian.

- (a) for abuse of his trust;
- (b) for continued failure to perform the duties of his trust;
- (c) for incapacity to perform the duties of his trust;
- (d) for ill-treatment, or neglect to take proper care, of his ward;
- (e) for contumacious disregard of any provision of this Act or of any order of the Court;
- (f) for conviction of an offence implying, in the opinion of the Court, a defect of character which unfits him to be the guardian of his ward;
- (g) for having an interest adverse to the faithful performance of his duties;

S. 36.—Under the corresponding section of Act XX. of 1864, it has been held that the plaintiff must specify one or more acts of misconduct, or assign some satisfactory reason for apprehending an injury to the estate of the ward. X. B. H. C. R., 414.

- (h) for ceasing to reside within the local limits of the jurisdiction of the Court;
- (i) in the case of a guardian of the property, for bankruptcy or insolvency;
- (j) by reason of the guardianship of the guardian ceasing, or being liable to cease, under the law to which the minor is subject:

Provided that a guardian appointed by will or other instrument, whether he has been declared under this Act or not, shall not be removed—

- (a) for the cause mentioned in clause (g) unless the adverse interest accrued after the death of the person who appointed him, or it is shown that that person made and maintained the appointment in ignorance of the existence of the adverse interest, or
- (b) for the cause mentioned in clause (h) unless such guardian has taken up such a residence as, in the opinion of the Court, renders it impracticable for him to discharge the functions of guardian.

40. (1) If a guardian appointed or declared by the Court desires to resign his office, he may apply to the Court to be discharged.

(2) If the Court finds that there is sufficient reason for the application, it shall discharge him, and, if the guardian making the application is the Collector and the Local Government approves of his applying to be discharged, the Court shall in any case discharge him.

Cessation of authority of guardian.

41. (1) The powers of a guardian of the person cease—

- (a) by his death, removal or discharge;
- (b) by the Court of Wards assuming superintendence of the person of the ward;
- (c) by the ward ceasing to be a minor;
- (d) in the case of a female ward, by her marriage to a husband who is not unfit to be guardian of her person or, if the guardian was appointed or declared by the Court, by her marriage to a husband who is not, in the opinion of the Court, so unfit; or
- (e) in the case of a ward whose father was unfit to be guardian of the person of the ward, by the father ceasing to be so or, if the father was deemed by the Court to be so unfit, by his ceasing to be so in the opinion of the Court.

(2) The powers of a guardian of the property cease—

- (a) by his death, removal or discharge;
- (b) by the Court of Wards assuming superintendence of the property of the ward; or
- (c) by the ward ceasing to be a minor.

(3) When for any cause the powers of a guardian cease, the Court may require him or, if he is dead, his representative to deliver as it directs any property in his possession or control belonging to the ward or any accounts in his possession or control relating to any past or present property of the ward.

(4) When he has delivered the property or accounts as required by the Court, the Court may declare him to be discharged from his liabilities save as regards any fraud which may subsequently be discovered.

42. When a guardian appointed or declared by the Court is discharged, or, under the law to which the ward is subject, ceases to be entitled to act, or when any such guardian or a guardian appointed by will or other instrument is removed or dies, the Court, of its own motion or on application under Chapter II, may, if the ward is still a minor, appoint or declare another guardian of his person or property, or both, as the case may be.

Appointment of successor to guardian dead, discharged or removed.

CHAPTER IV.

SUPPLEMENTAL PROVISIONS.

Orders for regulating conduct or proceedings of guardians, and enforcement of those orders.

43. (1) The Court may, on the application of any person interested or of its own motion, make an order regulating the conduct or proceedings of any guardian appointed or declared by the Court.

(2) Where there are more guardians than one of a ward, and they are unable to agree upon a question affecting his welfare, any of them may apply to the Court for its direction, and the Court may make such order respecting the matter in difference as it thinks fit.

(3) Except where it appears that the object of making an order under sub-section (1) or sub-section (2) would be defeated by the delay, the Court shall, before making the order, direct notice of the application therefor or of the intention of the Court to make it, as the case may be, to be given, in a case under sub-section (1), to the guardian or, in a case under sub-section (2), to the guardian who has not made the application.

(4) In case of disobedience to an order made under sub-section (1) or sub-section (2), the order may be enforced in the same manner as an injunction granted under section 492 or section 493 of the Code of Civil Procedure, in a case under sub-section (1), as if the ward were the plaintiff and the guardian were the defendant or, in a case under sub-section (2), as if the guardian who made the application were the plaintiff and the other guardian were the defendant.

(5) Except in a case under sub-section (2), nothing in this section shall apply to a Collector who is, as such, a guardian.

44. If, for the purpose or with the effect of preventing the Court from exercising its authority with respect to a ward, a guardian appointed or declared by the Court removes the ward from the limits of the jurisdiction of the Court in contravention of the provisions of section 26, he shall be liable, by order of the Court, to fine not exceeding one thousand rupees, or to imprisonment in the civil jail for a term which may extend to six months.

Penalty for removal of ward from jurisdiction.

Penalty for contumacy.

45. (1) In the following cases, namely :—

- (a) if a person having the custody of a minor fails to produce him or cause him to be produced in compliance with a direction under section 12, sub-section (1), or to do his utmost to compel the minor to return to the custody of his guardian in obedience to an order under section 25, sub-section (1), or
- (b) if a guardian appointed or declared by the Court fails to deliver to the Court, within the time allowed by or under clause (b) of section 34, a statement required under that clause, or to exhibit accounts in compliance with a requisition under clause (c) of that section, or to pay into the Court the balance due from him on those accounts in compliance with a requisition under clause (d) of that section, or
- (c) if a person who has ceased to be a guardian, or the representative of such a person, fails to deliver any property or accounts in compliance with a requisition under section 41, sub-section (3),

the person, guardian, or representative, as the case may be, shall be liable, by order of the Court, to fine not exceeding one hundred rupees, and in case of recusancy to further fine not exceeding ten rupees for each day after the first during which the default continues, and not exceeding five hundred rupees in the aggregate, and to detention in the civil jail until he undertakes to produce the minor or cause him to be produced, or to compel his return, or to deliver the statement, or to exhibit the accounts, or to pay the balance, or to deliver the property or accounts, as the case may be.

(2) If a person who has been released from detention on giving an undertaking under sub-section (1) fails to carry out the undertaking within the time allowed by the Court, the Court may cause him to be arrested and re-committed to the civil jail.

46. (1) The Court may call upon the Collector, or upon any Court subordinate to the Court, for a report on any matter arising in any proceeding under this Act and treat the report as evidence.

Reports by Collectors and Subordinate Courts.

(2) For the purpose of preparing the report the Collector or the Judge of the subordinate Court, as the case may be, shall make such inquiry as he deems necessary, and may for the purposes of the inquiry exercise any power of compelling the attendance of a witness to give evidence or produce a document which is conferred on a Court by the Code of Civil Procedure.

Orders appealable. 47. An appeal shall lie to the High Court from an order made by a District Court,—

- (a) under section 7, appointing or declaring or refusing to appoint or declare a guardian; or,
- (b) under section 9, sub-section (3), returning an application; or,
- (c) under section 25, making or refusing to make an order for the return of a ward to the custody of his guardian; or,
- (d) under section 26, refusing leave for the removal of a ward from the limits of the jurisdiction of the Court, or imposing conditions with respect thereto; or,
- (e) under section 28 or section 29, refusing permission to a guardian to do an act referred to in the section; or,
- (f) under section 32, defining, restricting or extending the powers of a guardian; or,
- (g) under section 39, removing a guardian; or,
- (h) under section 40, refusing to discharge a guardian; or,
- (i) under section 43, regulating the conduct or proceedings of a guardian or settling a matter in difference between joint guardians, or enforcing the order; or,
- (j) under section 44 or section 45, imposing a penalty.

48. Save as provided by the last foregoing section and by section 622 of the Code of Civil Procedure, an order made under this Act shall be final, and shall not be liable to be contested by suit or otherwise.

Costs. 49. The costs of any proceeding under this Act, including the costs of maintaining a guardian or other person in the civil jail, shall, subject to any rules made by the High Court under this Act, be in the discretion of the Court in which the proceeding is had.

Power of High Court to make rules. 50. (1) In addition to any other power to make rules conferred expressly or impliedly by this Act, the High Court may from time to time make rules consistent with this Act—

- (a) as to the matters respecting which, and the time at which, reports should be called for from Collectors and subordinate Courts;

- (b) as to the allowances to be granted to, and the security to be required from, guardians, and the cases in which such allowances should be granted ;
- (c) as to the procedure to be followed with respect to applications of guardians for permission to do acts referred to in sections 28 and 29 ;
- (d) as to the circumstances in which such requisitions as are mentioned in clauses (a), (b), (c) and (d) of section 34 should be made ;
- (e) as to the preservation of statements and accounts delivered and exhibited by guardians ;
- (f) as to the inspection of those statements and accounts by persons interested ;
- (g) as to the custody of money, and securities for money, belonging to wards ;
- (h) as to the securities on which money belonging to wards may be invested ;
- (i) as to the education of wards for whom guardians, not being Collectors, have been appointed or declared by the Court ; and,
- (j) generally, for the guidance of the Courts in carrying out the purposes of this Act.

(2) Rules under clauses (a) and (i) of sub-section (1) shall not have effect until they have been approved by the Local Government, nor shall any rule under this section have effect until it has been published in the official Gazette.

51. A guardian appointed by, or holding a certificate of administration from, a Civil Court under any enactment repealed by this Act shall, save as may be prescribed, be subject to the provisions of this Act, and of the rules made under it, as if he had been appointed or declared by the Court under Chapter II.

52. In section 3 of the Indian Majority Act, 1875, for the words "every minor of whose person or property a guardian has been or shall be appointed by any Court of Justice, and every minor under the jurisdiction of any Court of Wards," the following shall be substituted, namely,—

"every minor of whose person or property, or both, a guardian, other than a guardian for a suit within the meaning of Chapter XXXI of the Code of Civil Procedure, has been or shall be appointed or declared by any

Court of Justice before the minor has attained the age of eighteen years, and every minor of whose property the superintendence has been or shall be assumed by any Court of Wards before the minor has attained that age.”

Amendment of Chapter XXXI
of the Code of Civil Procedure.

53. Chapter XXXI of the Code of Civil Procedure shall be amended as follows, namely:—

A.—To section 440 of the said Code the following shall be added, namely:—

“If a minor has a guardian appointed or declared by an authority competent in this behalf, a suit shall not be instituted on behalf of the minor by any person other than such guardian except with the leave of the Court granted after notice to such guardian and after hearing any objections which he may desire to make with respect to the institution of the suit, and the Court shall not grant such leave unless it is of opinion that it is for the welfare of the minor that the person proposing to institute the suit in the name of the minor should be permitted to do so.”

B.—To section 443 of the said Code the following shall be added, namely:—

“Where an authority competent in this behalf has appointed or declared a guardian or guardians of the person or property, or both, of the minor, the Court shall appoint him or one of them, as the case may be, to be the guardian for the suit under this section unless it considers, for reasons to be recorded by it, that some other person ought to be so appointed.”

C.—After section 446 of the said Code the following shall be added, namely:—

“If the next friend is not a guardian appointed or declared by an authority competent in this behalf, and an application is made by a guardian so appointed or declared who desires to be himself appointed in the place of the next friend, the Court shall remove the next friend unless it considers, for reasons to be recorded by it, that the guardian ought not to be appointed the next friend of the minor.”

D.—For section 461 of the said Code the following shall be substituted, namely:—

Receipt by next friend or guardian *ad litem* of property under decree for minor.

“461. (1) A next friend or guardian for the suit shall not, without the leave of the Court, receive any money or other moveable property on behalf of a minor, either—

(a) by way of compromise before decree or order, or

(b) under a decree or order in favour of the minor.

“(2) Where the next friend or guardian for the suit has not been appointed or declared by competent authority to be guardian of the property of the minor, or, having been so appointed or declared, is under any disability

known to the Court to receive the money or other moveable property, the Court shall, if it grants him leave to receive the property, require such security and give such directions as will, in its opinion, sufficiently protect the property from waste and ensure its proper application."

E.—For section 464 of the said Code as amended by the Civil Procedure Code Amendment Act, 1888, the following shall be substituted, namely:—

"464. Nothing in this Chapter applies to a Sovereign Prince or ruling Chief suing or being sued in the name of his Princes and Chiefs and wards of Court. State or being sued, by direction of the Governor General in Council or a Local Government, in the name of an agent or in any other name, or shall be construed to affect, or in any way derogate from, the provisions of any local law for the time being in force relating to suits by or against minors or by or against lunatics or other persons of unsound mind."

THE SCHEDULE.

ENACTMENTS REPEALED.

(See section 2.)

Number and year.	Extent of repeal.	Number and year.	Extent of repeal.
<i>Acts of the Governor General in Council.</i>			
XIV. of 1858 ...	The whole.	XVIII. of 1876...	So far as it relates to Act XL. of 1858.
XL. of 1858 ...	So much as has not been repealed.	XIII. of 1879 ...	Clause (1) of section 25 relating to proceedings under Acts XL. of 1858 and IX. of 1861.
IX. of 1861 ...	The whole.	XIV. of 1882 ...	The second paragraph of section 443.
XX. of 1864 ...	The whole.	XVIII. of 1884 ...	So much of section 29 as has not been repealed.
XIV. of 1869 ...	So much of the last paragraph of section 16 as has not been repealed.	XVII. of 1885 ...	Section 5.
VII. of 1870 ...	Section 19H, and article 10 of Schedule I.	XII. of 1887 ...	Clause (b) of section 23, sub-section (2).
^{12. XXIV/49.541} IV. of 1872 ...	So far as it relates to Act XL. of 1858.	XI. of 1889 ...	The words "to be and" in section 99, sub-section (1), and section 102, so far as it relates to Act XIII. of 1874.
XLX. of 1873 ...	Section 258.		
XIII. of 1874 ...	The whole.		
XV. of 1874 ...	So far as it relates to any enactment repealed by this Act.		
XX. of 1875 ...	So far as it relates to Act XL. of 1858.		

Sch.—The titles or subjects of the repealed enactments and references to two Regulations not in force in the Bombay Presidency are omitted.

Act No. IX. of 1890. *'Su X/95*

RECEIVED THE ASSENT OF THE GOVERNOR GENERAL ON THE
21ST MARCH, 1890.

THE INDIAN RAILWAYS ACT, 1890.

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148. Matters supplemental to the definitions of "railway" and "railway servant".
149. Amendment of the Indian Penal Code.
150. Amendment of the Sindh-Pishin Railway Act, 1887.

THE FIRST SCHEDULE.—Enactments repealed.
 THE SECOND SCHEDULE.—Articles to be declared and insured.

An Act to consolidate, amend and add to the law relating to Railways in India.

WHEREAS it is expedient to consolidate, amend and add to the law relating to railways in India; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Title, extent and commencement.

1. (1) This Act may be called the Indian Railways Act, 1890.

(2) It extends to the whole of British India, inclusive of ~~Upper Burma~~ ^{XIII/98 S. 18(1)} ^{and} (in so far as it has been or may be extended under the provisions of the Sindh-Pishin Railway Act, 1887) of British Baluchistan, and applies also to all subjects of Her Majesty within the dominions of Princes and States in India in alliance with Her Majesty, and to all Native subjects of Her Majesty without and beyond British India and those dominions; and ^{and P. I.}

(3) It shall come into force on the first day of May, 1890.

*2. (1) On and from that day the enactments specified in the first schedule are repealed to the extent mentioned in the third column thereof.

Repeal.

(2) But all rules, declarations and appointments made, sanctions and directions given, forms approved, powers conferred and notifications published under any of those enactments, or under any enactment repealed by any of them, shall, so far as they are consistent with this Act, be deemed to have been respectively made, given, approved, conferred and published under this Act.

(3) Any enactment or document referring to any of those enactments or to any enactment repealed by any of them, shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

(1) “tramway” means a tramway constructed under the Indian Tramways Act, 1886, or any special Act relating to tramways:

(2) “ferry” includes a bridge of boats, pontoons or rafts, a swing-bridge, ^{See II/1901(2)} a flying bridge and a temporary bridge, and the approaches to, and landing-places of, a ferry:

(3) “inland water” means any canal, river, lake or navigable water in British India:

(4) “railway” means a railway, or any portion of a railway, for the public carriage of passengers, animals or goods, and includes—

(a) all land within the fences or other boundary-marks indicating the limits of the land appurtenant to a railway;

(b) all lines of rails, sidings or branches worked over for the purposes of, or in connection with, a railway;

(c) all stations, offices, warehouses, wharves, workshops, manufactories, fixed plant and machinery and other works constructed for the purposes of, or in connection with, a railway ; and

(d) all ferries, ships, boats and rafts which are used on inland waters for the purposes of the traffic of a railway and belong to or are hired or worked by the authority administering the railway :

¹ Cf. 34 & 35 Vic. c. 78 s. 2 (5) "railway company" includes any persons, whether incorporated or not, who are owners or lessees of a railway or parties to an agreement for working a railway :

(6) "railway administration" or "administration", in the case of a railway administered by the Government or a Native State, means the Manager of the railway and includes the Government or the Native State, and, in the case of a railway administered by a railway company, means the railway company :

(7) "railway servant" means any person employed by a railway administration in connection with the service of a railway :

(8) "Inspector" means an Inspector of Railways appointed under this Act :

² Cf. 50 & 51 Vic. c. 20 s. 3. (9)² "goods" includes inanimate things of every kind :

³ 3 & 35 & 36 Vic. c. 50 s. 2 (10)³ "rolling-stock" includes locomotive engines, tenders, carriages, wagons, trucks and trollies of all kinds :

⁴ 4 & 17 & 18 Vic. c. 31 s. 1. (11)⁴ "traffic" includes rolling-stock of every description as well as passengers, animals and goods :

(12) "through traffic" means traffic which is carried over the railways of two or more railway administrations :

⁵ 6 & 8 & 9 Vic. c. 20 s. 3. (13)⁵ "rate" includes any fare, charge or other payment for the carriage of any passenger, animal or goods :

⁶ 6 & 51 & 52 Vic. c. 25 s. 55- (14)⁶ "terminals" includes charges in respect of stations, sidings, wharves, depôts, warehouses, cranes and other similar matters, and of any services rendered thereat :

(15) "pass" means an authority given by a railway administration, or by an officer appointed by a railway administration in this behalf, and authorizing the person to whom it is given to travel as a passenger on a railway gratuitously :

(16) "ticket" includes a single ticket, a return ticket and a season ticket :

(17) "maund" means a weight of three thousand two hundred tolas, each tola being a weight of one hundred and eighty grains Troy : and

(18) "Collector" means the chief officer in charge of the land-revenue administration of a district, and includes any officer specially appointed by the Local Government to discharge the functions of a Collector under this Act.

S. 3, clauses (5), (6) and (7).—For the meaning of the word "railway" see S. 148 (1).

CHAPTER II.

INSPECTION OF RAILWAYS.

Appointment and duties of Inspectors. 4. (1) The Governor General in Council ^{16/34035/116} may appoint persons, by name or by virtue of ²⁻⁷⁸⁻¹³ their office, to be Inspectors of Railways.² ^{2. See 1909 Indian (Railway) Circular 19 XV. 4 Dec 1908}

(2) The duties of an Inspector of Railways shall be—

(a) to inspect railways with a view to determine whether they are fit to be opened for the public carriage of passengers, and to report thereon to the Governor General in Council as required by this Act;

(b) to make such periodical or other inspections of any railway or of any rolling-stock used thereon as the Governor General in Council may direct;

(c) to make inquiry under this Act into the cause of any accident on a railway;

(d) to perform such other duties as are imposed on him by this Act or any other enactment for the time being in force relating to railways.

⁵ 5. An Inspector shall, for the purpose of any of the duties which he ^{36/37025/116} is required or authorized to perform under this ²⁻⁷⁸⁻¹³ Act, be deemed to be a public servant within the meaning of the Indian Penal Code, and, subject to the control of the Governor General in Council, shall for that purpose have the following powers, namely:—

(a) to enter upon and inspect any railway or any rolling-stock used thereon;

(b) by an order in writing under his hand addressed to the railway administration, to require the attendance before him of any railway servant, and to require answers or returns to such inquiries as he thinks fit to make from such railway servant or from the railway administration;

(c) to require the production of any book or document belonging to or in the possession or control of any railway administration (except a communication between a railway company and its legal advisers) which it appears to him to be necessary to inspect.

Facilities to be afforded to Inspectors. 6. A railway administration shall afford to the Inspector all reasonable facilities for performing the duties and exercising the powers imposed and conferred upon him by this Act.

Ss. 4—19.—For the meaning of the word "railway" see S. 148 (1).

S. 5.—For the meaning of the expression "railway servant" see S. 148 (2).

CHAPTER III.

CONSTRUCTION AND MAINTENANCE OF WORKS.

48 ag 10:20 a.16
 7. (1) Subject to the provisions of this Act and, in the case of immovable property not belonging to the railway administration, to the provisions of any enactment for the time being in force for the acquisition of land for public purposes and for companies, and, subject also, in the case of a railway company, to the provisions of any contract between the company and the Government, a railway administration may, for the purpose of constructing a railway or the accommodation or other works connected therewith, and notwithstanding anything in any other enactment for the time being in force,—

- 2. 15/96 a.1*
- (a) make or construct in, upon, across, under or over any lands, or any streets, hills, valleys, roads, railways or tramways, or any rivers, canals, brooks, streams or other waters, or any drains, water-pipes, gas-pipes or telegraph lines, such temporary or permanent inclined planes, arches, tunnels, culverts, embankments, aqueducts, bridges, roads, ^{2 line 2 railway}ways, passages, conduits, drains, piers, cuttings and fences as the railway administration thinks proper;
 - (b) alter the course of any rivers, brooks, streams or water-courses, for the purpose of constructing and maintaining tunnels, bridges, passages or other works over or under them, and divert or alter, as well temporarily as permanently, the course of any rivers, brooks, streams or water-courses or any roads, streets or ways, or raise or sink the level thereof, in order the more conveniently to carry them over or under or by the side of the railway, as the railway administration thinks proper;
 - (c) make drains or conduits into, through or under any lands adjoining the railway for the purpose of conveying water from or to the railway;
 - (d) erect and construct such houses, warehouses, offices and other buildings and such yards, stations, wharves, engines, machinery, apparatus and other works and conveniences as the railway administration thinks proper;
 - (e) alter, repair or discontinue such buildings, works and conveniences as aforesaid or any of them, and substitute others in their stead;
 - (f) do all other acts necessary for making, maintaining, altering or repairing and using the railway.

(2) The exercise of the powers conferred on a railway administration by sub-section (1) shall be subject to the control of the Governor General in Council.

8. A railway administration may, for the purpose of exercising the powers conferred upon it by this Act, alter the position of any pipe for the supply of gas, water or compressed air or the position of any electric wire or of any drain not being a main drain:

Provided that—

(a) when the railway administration desires to alter the position of any such pipe, wire or drain it shall give reasonable notice of its intention to do so, and of the time at which it will begin to do so, to the local authority or company having control over the pipe, wire or drain, or, when the pipe, wire or drain is not under the control of a local authority or company, to the person under whose control the pipe, wire or drain is;

(b) a local authority, company or person receiving notice under proviso (a) may send a person to superintend the work, and the railway administration shall execute the work to the reasonable satisfaction of the person so sent and shall make arrangements for continuing during the execution of the work the supply of gas, water, compressed air or electricity or the maintenance of the drainage, as the case may be.

9. (1) The Governor General in Council may authorize any railway administration, in case of any slip or other accident happening or being apprehended to any cutting, embankment or other work under the control of the railway administration, to enter upon any lands adjoining its railway for the purpose of repairing or preventing the accident, and to do all such works as may be necessary for the purpose.

(2) In case of necessity the railway administration may enter upon the lands and do the works aforesaid without having obtained the previous sanction of the Governor General in Council, but in such a case shall, within seventy-two hours after such entry, make a report to the Governor General in Council, specifying the nature of the accident or apprehended accident, and of the works necessary to be done, and the power conferred on the railway administration by this sub-section shall cease and determine if the Governor General in Council, after considering the report, considers that the exercise of the power is not necessary for the public safety.

10. (1) A railway administration shall do as little damage as possible in the exercise of the powers conferred by any of the three last foregoing sections, and compensation shall be paid for any damage caused by the exercise thereof.

(2) A suit shall not lie to recover such compensation, but in case of dispute the amount thereof shall, on application to the Collector, be determined and paid in accordance, so far as may be, with the provisions of sections 11 to 15, both inclusive, and sections 16 to 18, both inclusive, of the Land-acquisition Act, 1870, and the provisions of sections 67 and 68 of that Act shall apply to the award of compensation.

² 11. (1) A railway administration shall make and maintain the following Accommodation works. ing works for the accommodation of the owners and occupiers of lands adjoining the railway, namely:—

- (a) such and so many convenient crossings, bridges, arches, culverts and passages over, under or by the sides of, or leading to or from, the railway as may, in the opinion of the Governor General in Council, be necessary for the purpose of making good any interruptions caused by the railway to the use of the lands through which the railway is made, and
- (b) all necessary arches, tunnels, culverts, drains, water-courses or other passages, over or under or by the sides of the railway, of such dimensions as will, in the opinion of the Governor General in Council, be sufficient at all times to convey water as freely from or to the lands lying near or affected by the railway as before the making of the railway, or as nearly so as may be.

(2) Subject to the other provisions of this Act the works specified in clauses (a) and (b) of sub-section (1) shall be made during or immediately after the laying out or formation of the railway over the lands traversed thereby and in such manner as to cause as little damage or inconvenience as possible to persons interested in the lands or affected by the works.

(3) The foregoing provisions of this section are subject to the following provisos, namely:—

- (a) a railway administration shall not be required to make any accommodation works in such a manner as would prevent or obstruct the working or using of the railway, or to make any accommodation works with respect to which the owners and occupiers of the lands have agreed to receive and have been paid compensation in consideration of their not requiring the works to be made;

- (b)³ save as hereinafter in this Chapter provided, a railway administration shall not, except on the requisition of the Governor General in Council, be compelled to defray the cost of executing any further or additional accommodation works for the use of the owners or occupiers of the lands after the expiration of ten years from the date on which the railway passing through the lands was first opened for public traffic;

- (c) where a railway administration has provided suitable accommodation for the crossing of a road or stream, and the road or stream is afterwards diverted by the act or neglect of the person having the control thereof, the administration shall not be compelled to provide other accommodation for the crossing of the road or stream.

(4) The Governor General in Council may appoint a time for the commencement of any work to be executed under sub-section (1), and if for fourteen days next after that time the railway administration fails to commence the work or, having commenced it, fails to proceed diligently to execute it in a sufficient manner, the Governor General in Council may execute it and recover from the railway administration the cost incurred by him in the execution thereof. *cf 809 Vic 20 570.*

12.² If an owner or occupier of any land affected by a railway considers the works made under the last foregoing section to be insufficient for the commodious use of the land, or if the Local Government or a local authority desires to construct a public road or other work across, under or over a railway, he or it, as the case may be, may at any time require the railway administration to make at his or its expense such further accommodation works as he or it thinks necessary and are agreed to by the railway administration or as, in case of difference of opinion, may be authorized by the Governor General in Council. *cf 809 Vic 20 571.*

13.³ The Governor General in Council may require that, within a time to be specified in the requisition or within such further time as he may appoint in this behalf,— *cf 809 Vic 20 572.*

- (a) boundary-marks or fences be provided or renewed by a railway administration for a railway or any part thereof and for roads constructed in connection therewith;

(b)⁴ any works in the nature of a screen near to or adjoining the side of any public road constructed before the making of a railway be provided or renewed by a railway administration for the purpose of preventing danger to passengers on the road by reason of horses or other animals being frightened by the sight or noise of the rolling-stock moving on the railway; *cf 809 Vic 20 573.*

(c)⁵ suitable gates, chains, bars, stiles or hand-rails be erected or renewed by a railway administration at places where a railway crosses a public road on the level; *cf 809 Vic 20 574.*

(d)⁶ persons be employed by a railway administration to open and shut such gates, chains or bars. *cf 809 Vic 20 575.*

¹14. (1) Where a railway administration has constructed a railway across a public road on the level, the Governor General in Council may at any time, if it appears to him necessary for the public safety, require the railway administration, within such time as he thinks fit, to carry the road either under or over the railway by means of a bridge or arch, with convenient ascents and descents and other convenient approaches, instead of crossing the road on the level, or to execute such other works as, in the circumstances of the case, may appear to the Governor General in Council to be best adapted for removing or diminishing the danger arising from the level-crossing.

²(2) The Governor General in Council may require, as a condition of making a requisition under sub-section (1), that the local authority, if any, which maintains the road shall undertake to pay the whole of the cost to the railway administration of complying with the requisition or such portion of the cost as the Governor General in Council thinks just.

³15. (1) In either of the following cases, namely :—

(a) where there is danger that a tree standing near a railway may fall on the railway so as to obstruct traffic,

(b) when a tree obstructs the view of any fixed signal,

the railway administration may, with the permission of any Magistrate, fell the tree or deal with it in such other manner as will in the opinion of the railway administration avert the danger or remove the obstruction, as the case may be.

(2) In case of emergency the power mentioned in sub-section (1) may be exercised by a railway administration without the permission of a Magistrate.

(3) Where a tree felled or otherwise dealt with under sub-section (1) or sub-section (2) was in existence before the railway was constructed or the signal was fixed, any Magistrate may, upon the application of the persons interested in the tree, award to those persons such compensation as he thinks reasonable.

(4) Such an award, subject, where made in a presidency-town by any Magistrate other than the Chief Presidency Magistrate or where made elsewhere by any Magistrate other than the District Magistrate to revision by the Chief Presidency Magistrate, or the District Magistrate, as the case may be, shall be final.

(5) A Civil Court shall not entertain a suit to recover compensation for any tree felled or otherwise dealt with under this section.

CHAPTER IV.

OPENING OF RAILWAYS.

16. (1) A railway administration may, with the previous sanction of the Governor General in Council, use upon a railway locomotive engines or other motive power, and rolling-stock to be drawn or propelled thereby.¹

Right to use locomotives.

*cf 849/10 c20
s 86
2 Ls. Govt. Act
Local Rules &
Orders I & I.
(1896) p. 101/11
& c. xlv.*

(2) But rolling-stock shall not be moved upon a railway by steam or other motive power until such general rules for the railway as may be deemed to be necessary have been made, sanctioned and published under this Act.

17. (1) Subject to the provisions of sub-section (2), a railway administration shall, one month at least before it intends to open any railway for the public carriage of passengers, give to the Governor General in Council notice in writing of its intention.

Notice of intended opening of a railway.

(2) The Governor General in Council may, in any case, if he thinks fit, reduce the period of, or dispense with, the notice mentioned in sub-section (1).

18. A railway shall not be opened for the public carriage of passengers until the Governor General in Council, or an Inspector empowered by the Governor General in Council in this behalf, has by order sanctioned the opening thereof for that purpose.

Sanction of the Government a condition precedent to the opening of a railway.

19. (1) The sanction of the Governor General in Council under the last foregoing section shall not be given until an Inspector has, after inspection of the railway, reported in writing to the Governor General in Council—

Procedure in sanctioning the opening of a railway.

(a) that he has made a careful inspection of the railway and rolling-stock;

(b) that the moving and fixed dimensions prescribed by the Governor General in Council have not been infringed;

(c) that the weight of rails, strength of bridges, general structural character of the works, and the size of and maximum gross load upon the axles of any rolling-stock are such as have been prescribed by the Governor General in Council;

*1546 R. i. c. 55.
s. 16.*

(d) that the railway is sufficiently supplied with rolling-stock;

(e) that general rules for the working of the railway when opened for the public carriage of passengers have been made, sanctioned and published under this Act; and

(f) that, in his opinion, the railway can be opened for the public carriage of passengers without danger to the public using it.

cf. 5+6/16/55 (2) If in the opinion of the Inspector the railway cannot be so opened
S. 16. without danger to the public using it, he shall state that opinion together with the grounds therefor to the Governor General in Council, and the Governor General in Council may thereupon order the railway administration to postpone the opening of the railway.

(3) An order under the last foregoing sub-section must set forth the requirements to be complied with as a condition precedent to the opening of the railway being sanctioned, and shall direct the postponement of the opening of the railway until those requirements have been complied with or the Governor General in Council is otherwise satisfied that the railway can be opened without danger to the public using it.

(4) The sanction given under this section may be either absolute, or subject to such conditions as the Governor General in Council thinks necessary for the safety of the public.

(5) When sanction for the opening of a railway is given subject to conditions, and the railway administration fails to fulfil those conditions, the sanction shall be deemed to be void and the railway shall not be worked or used until the conditions are fulfilled to the satisfaction of the Governor General in Council.

2 cf. 34+35/16 20. (1) The provisions of sections 17, 18 and 19 with respect to the
c. 78 o. 5 opening of a railway shall extend to the opening of the works mentioned in sub-section (2) when those works form part of, or are directly connected with, a railway used for the public carriage of passengers and have been construct-

ed after the inspection which preceded the first opening of the railway.

(2) The works referred to in sub-section (1) are additional lines of railway, deviation lines, stations, junctions and crossings on the level, and any alteration or re-construction materially affecting the structural character of any work to which the provisions of sections 17, 18 and 19 apply or are extended by this section.

21. When an accident has occurred resulting in a temporary suspension of traffic, and either the original line and works
 Exceptional provision. have been rapidly restored to their original standard, or a temporary diversion has been laid for the purpose of restoring communication, the original line and works so restored, or the temporary diversion, as the case may be, may, in the absence of the Inspector, be opened for the public carriage of passengers, subject to the following conditions, namely:—

(a) that the railway servant in charge of the works undertaken by reason of the accident has certified in writing that the opening of the restored line and works, or of the temporary diversion, will not in his opinion be attended with danger to the public using the line and works or the diversion; and

S. 21.—For the meaning of the expression "railway servant" see S. 148. (2).

(b) that notice by telegraph of the opening of the line and works or the diversion shall be sent, as soon as may be, to the Inspector appointed for the railway.

22. The Governor General in Council may make rules defining the cases in which, and in those cases the extent to which, the procedure prescribed in sections 17 to 20 (both inclusive) may be dispensed with.

Power to make rules with respect to the opening of railways.

23. (1) When, after inspecting any open railway used for the public carriage of passengers, or any rolling-stock used thereon, an Inspector is of opinion that the use of the railway or of any specified rolling-stock will be attended with danger to the public using it, he shall state that opinion, together with the grounds therefor, to the Governor General in Council; and the Governor General in Council may thereupon order that the railway be closed for the public carriage of passengers, or that the use of the rolling-stock so specified be discontinued, or that the railway or the rolling-stock so specified be used for the public carriage of passengers on such conditions only as the Governor General in Council may consider necessary for the safety of the public.

Power to close an opened railway.

(2) An order under sub-section (1) must set forth the grounds on which it is founded. *cf s 50 b Vic. 655 s. 16.*

24. (1) When a railway has been closed under the last foregoing section, it shall not be re-opened for the public carriage of passengers until it has been inspected, and its re-opening sanctioned, in accordance with the provisions of this Act.

Re-opening of a closed railway.

(2) When the Governor General in Council has ordered under the last foregoing section that the use of any specified rolling-stock be discontinued, that rolling-stock shall not be used until an Inspector has reported that it is fit for use and the Governor General in Council has sanctioned its use.

(3) When the Governor General in Council has imposed under the last foregoing section any conditions with respect to the use of any railway or rolling-stock, those conditions shall be observed until they are withdrawn by the Governor General in Council.

25. (1) The Governor General in Council may, by general or special order, authorize the discharge of any of his functions under this Chapter by an Inspector, and may cancel any sanction or order given by an Inspector discharging any such function or attach thereto any condition which the Governor General in Council might have imposed if the sanction or order had been given by himself.

Delegation of powers under this Chapter to Inspectors.

(2) A condition imposed under sub-section (1) shall for all the purposes of this Act have the same effect as if it were attached to a sanction or order given by the Governor General in Council.

CHAPTER V.

RAILWAY COMMISSIONS AND TRAFFIC FACILITIES.

Railway Commissions.

26. (1) For the purposes of this Chapter the Governor General in Council shall, as occasion may in his opinion require, appoint a commission, styled a Railway Commission (in this Act referred to as the Commissioners) and consisting of one Law Commissioner and two Lay Commissioners.

(2) The Commissioners shall sit at such times and in such places as the Governor General in Council appoints.

(3) The Law Commissioner shall be such Judge of the High Court having jurisdiction in reference to European British subjects under the Code of Criminal Procedure, 1882, in the place where the Commissioners are to sit as, in the case of a High Court established under the Statute 24 and 25 Victoria, chapter 104, the Chief Justice or, in the case of the Chief Court of the Punjab, the Senior Judge or, in the case of the Court of the Recorder of Rangoon, the Chief Commissioner of Burma may, on the request of the Governor General in Council, assign by writing under his hand.

(4) The Lay Commissioners shall be appointed by the Governor General in Council, and one at least of them shall be of experience in railway business.

Restriction of jurisdiction of Railway Commission to cases specially referred.

27. The Commissioners shall take cognizance of such cases only as are referred to them by the Governor General in Council.

Reference of cases to Railway Commission.

28. In any of the following circumstances, namely:—

(a) where complaint is made to the Governor General in Council of anything done or any omission made by a railway administration in violation or contravention of any provision of this Chapter;

(b) where any difference which is under the provisions of any agreement required or authorized to be referred to arbitration arises between railway administrations, and the railway administrations apply to the Governor General in Council to have it referred to the Commissioners;

(c) where any other difference, being a difference between railway administrations or one to which a railway administration is a party, arises, and the parties thereto apply to the Governor General in Council to have it referred to the Commissioners;

the Governor General in Council may, if he thinks fit, refer the case to the Commissioners for decision.

29. The three Commissioners shall attend at the hearing of any case referred to them for decision under this Chapter, and the Law Commissioner shall preside at the hearing.

Constitution of Railway Commission in session.

30. (1) In hearing any such case the Commissioners shall have all the powers which may be exercised in the hearing of an original civil suit by a High Court.

Powers of Railway Commission.

(2) The decision shall, if the Commissioners differ in opinion, be in accordance with the opinion of the majority, and the final order in the case shall be by way of injunction and not otherwise.

(3) At the hearing the Commissioners may permit any party to appear before them either by himself or by any legal practitioner entitled to practise in any High Court.

*cf 51952 Vic
c 25. 850.*

31. (1) An appeal shall not lie from any order of the Commissioners upon any question of fact on which two of the Commissioners are agreed.

Appeals from orders of Railway Commission.

(2) Subject to the provisions of sub-section (1), an appeal shall lie from an order of the Commissioners—

(a) where the Law Commissioner was the Recorder or Additional Recorder of Rangoon, to the High Court of Judicature at Fort William in Bengal, and

(b) in any other case, to the High Court of which the Law Commissioner was a member.

(3) Such an appeal must be presented within six months from the date of the order appealed from, and shall be heard by a bench of as many Judges, not being fewer than three, as the High Court may by rule prescribe.

(4) In the hearing of the appeal the High Court shall, subject to the other provisions of this Chapter, have all the powers which it has as an Appellate Court under the Code of Civil Procedure, and may make any order which the Commissioners could have made.

32. Notwithstanding any appeal to the High Court from an order of the Commissioners, the order shall, unless the Commissioners or the majority of them see fit to suspend it, continue in operation until it is reversed or varied by that Court.

Operation of orders of Railway Commission.

33. (1) The Commissioners, in the exercise of their jurisdiction under this Chapter, may, from time to time, with the general or special sanction of the Governor General in Council, call in one or more persons of engineering or other technical knowledge to act as assessors.

Assessors.

(2) There shall be paid to such persons such remuneration as the Governor General in Council upon the recommendation of the Commissioners may direct.

34. The Governor General in Council may make rules regulating proceedings before the Commissioners and enabling the Commissioners to carry into effect the provisions of this Chapter, and prescribing fees to be taken in relation to proceedings before the Commissioners.

Power of the Governor General in Council to make rules for the purposes of this Chapter.

35. The costs of and incidental to any proceedings before the Commissioners or the High Court under this Chapter shall be in the discretion of the Commissioners or the High Court, as the case may be, and the payment of costs awarded by the Commissioners may be enforced by the Court of which the Law Commissioner was a Judge as if the payment had been ordered by a decree of a High Court.

Costs of proceedings under this Chapter.

36. (1) The Court of which the Law Commissioner was a Judge may, if it appears on the application of any person who was a party to the proceedings before the Commissioners or on appeal before the High Court, or of the representative of any such person, that an injunction made under this Chapter by the Commissioners or by a High Court has not been obeyed by the party enjoined, order such party to pay a sum not exceeding one thousand rupees for every day during which the injunction is disobeyed after the date of the order directing such payment.

Execution of order of Railway Commission and High Court.

(2) The payment of such sum may be enforced by the Court which made the order as if that Court had given a decree for the same, and the Court may direct that the whole or any part of the sum shall be paid to the person making the application under sub-section (1) or to the Government.

37. A document purporting to be signed by the Commissioners, or any of them, shall be received in evidence without proof of the signature, and shall, until the contrary is proved, be deemed to have been so signed and to have been duly executed or issued by the Commissioners.

Evidence of documents.

38. The Commissioners shall, as soon as may be after the disposal of each case referred to them, submit to the Governor General in Council a special report on the case, and the Governor General in Council shall cause the report to be published in such manner as he thinks fit for the information of persons interested in the subject-matter thereof.

Submission to the Governor General in Council of special reports by Railway Commission.

39. Except for the purpose of the last foregoing section, a Railway Commission shall be deemed to be dissolved at the close of the last of the sittings of the Commissioners for the decision of the cases referred to them:

Provided that, on the application of any person who was a party to the proceedings before the Commissioners, or of the representative of any such person, the Governor General in Council may, if he thinks fit, in any case in which the order passed by the Commissioners is not open to appeal, re-appoint the Commissioners for the purpose of hearing an application for a review of their decision and of granting the same and re-hearing the case if they think that the case should be re-heard.

40. Subject to the foregoing provisions of this Chapter and to any direction of Her Majesty in Council, an order of the Commissioners shall be final and shall not be questioned in or restrained by any Court.

41. Except as provided in this Act, no suit shall be instituted or proceeding taken for anything done or any omission made by a railway administration in violation or contravention of any provision of this Chapter or of any order made thereunder by the Commissioners or by a High Court.

Traffic Facilities.

42. (1) Every railway administration shall, according to its powers, afford all reasonable facilities for the receiving, forwarding and delivering of traffic upon and from the several railways belonging to or worked by it and for the return of rolling-stock.

Duty of railway administrations to arrange for receiving and forwarding traffic without unreasonable delay and without partiality.

(2) A railway administration shall not make or give any undue or unreasonable preference or advantage to or in favour of any particular person or railway administration, or any particular description of traffic, in any respect whatsoever, or subject any particular person or railway administration or any particular description of traffic to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

(3) A railway administration having or working railways which form part of a continuous line of railway communication, or having its terminus or station within one mile of the terminus or station of another railway administration, shall afford all due and reasonable facilities for receiving and forwarding by one of such railways all the traffic arriving by the other at such terminus or station, without any unreasonable delay, and without any such preference or advantage or prejudice or disadvantage as aforesaid, and

so that no obstruction may be offered to the public desirous of using such railways as a continuous line of communication, and so that all reasonable accommodation may by means of such railways be at all times afforded to the public in that behalf.

(4) The facilities to be afforded under this section shall include the due and reasonable receiving, forwarding and delivering by every railway administration, at the request of any other railway administration, of through traffic to and from the railway of any other railway administration at through rates:

Provided as follows:—

- (a) the railway administration requiring the traffic to be forwarded shall give written notice of the proposed through rate to each forwarding railway administration, stating both its amount and its apportionment and the route by which the traffic is proposed to be forwarded. The proposed through rate for animals or goods may be per truck or per maund;
- (b) each forwarding railway administration shall, within the prescribed period after the receipt of such notice, by written notice inform the railway administration requiring the traffic to be forwarded whether it agrees to the rate, apportionment and route, and, if it has any objection, what the grounds of the objection are;
- (c) if at the expiration of the prescribed period no such objection has been sent by any forwarding railway administration, the rate shall come into operation at the expiration of that period;
- (d) if an objection to the rate, apportionment or route has been sent within the prescribed period, the Governor General in Council may, if he thinks fit, on the request of any of the railway administrations, refer the case to the Commissioners for their decision;
- (e) if the objection is to the granting of the rate or to the route, the Commissioners shall consider whether the granting of the rate is a due and reasonable facility in the interests of the public, and whether, regard being had to the circumstances, the route proposed is a reasonable route, and shall allow or refuse the rate accordingly or fix such other rate as may seem to the Commissioners to be just and reasonable;
- (f) if the objection is only to the apportionment of the rate, and the case has been referred to the Commissioners, the rate shall come into operation at the expiration of the prescribed

period, but the decision of the Commissioners as to its apportionment shall be retrospective: in the case of any other objection the operation of the rate shall be suspended until the Commissioners make their order in the case;

(g) the Commissioners in apportioning the through rate shall take into consideration all the circumstances of the case, including any special expense incurred in respect of the construction, maintenance or working of the route or any part of the route, as well as any special charges which any railway administration is entitled to make in respect thereof;

(h) the Commissioners shall not in any case compel any railway administration to accept lower mileage rates than the mileage rates which the administration may for the time being legally be charging for like traffic carried by a like mode of transit on any other line of communication between the same points, being the points of departure and arrival of the through route;

(i) subject to the foregoing provisions of this sub-section, the Commissioners shall have full power to decide that any proposed through rate is due and reasonable, notwithstanding that a less amount may be allotted to any forwarding railway administration out of the through rate than the maximum rate which the railway administration is entitled to charge, and to allow and apportion the through rate accordingly; Cf 26.37.46
C.48.0.12

(j) the prescribed period mentioned in this sub-section shall be one month, or such longer period as the Governor General in Council may by general or special order prescribe.

² 43. (1) Whenever it is shown that a railway administration charges ^{Cf 5.10.2.46} one trader or class of traders or the traders in ^{C.25.2.27} any local area lower rates for the same or similar animals or goods, or lower rates for the same or similar services, than it charges to

Undue preference in case of unequal rates for like traffic or services.

other traders or classes of traders, or to the traders in another local area, the burden of proving that such lower charge does not amount to an undue preference shall lie on the railway administration.

(2) In deciding whether a lower charge does or does not amount to an undue preference, the Commissioners may, so far as they think reasonable, in addition to any other considerations affecting the case, take into consideration whether such lower charge is necessary for the purpose of securing, in the interests of the public, the traffic in respect of which it is made.

^{cf 51+52 Vic c 25 s. 25.} 44. Where a railway administration is a party to an agreement for procuring the traffic of the railway to be carried on any inland water by any ferry, ship, boat or raft which does not belong to or is not hired or worked by the railway administration, the provisions of the two last foregoing sections applicable to a railway shall extend to the ferry, ship, boat or raft in so far as it is used for the purposes of the traffic of the railway.

Terminals.

45. A railway administration may charge reasonable terminals.

^{cf 36+37 Vic c 48 s. 15.} 46. (1) The Governor General in Council may, if he thinks fit, refer to the Commissioners for decision any question or dispute which may arise with respect to the terminals charged by a railway administration, and the Commissioners may thereupon decide what is a reasonable sum to be paid to the railway administration in respect of terminals.

^{cf 51+52 Vic c 25 s. 24 (1).} (2) In deciding the question or dispute the Commissioners shall have regard only to the expenditure reasonably necessary to provide the accommodation in respect of which the terminals are charged, irrespective of the outlay which may have been actually incurred by the railway administration in providing that accommodation.

CHAPTER VI.

WORKING OF RAILWAYS.

General.

^{cf 30+4 Vic c 97 s. 44-7, & 30+9 Vic c 29 s. 105.} 47. (1) Every railway company and, in the case of a railway administered by the Government, an officer to be appointed by the Governor General in Council in this behalf, shall make general rules consistent with this Act for the following purposes, namely:—

- (a) for regulating the mode in which, and the speed at which, rolling-stock used on the railway is to be moved or propelled;
- (b) for providing for the accommodation and convenience of passengers and regulating the carriage of their luggage;
- (c) for declaring what shall be deemed to be, for the purposes of this Act, dangerous or offensive goods, and for regulating the carriage of such goods;

S. 47.—For rules see G. G. 1890, p. 900.

S. 47.—The Director General of Railways is the officer appointed. G. G. 1890, p. 565.

Ss. 47-52.—For the meaning of the word "railway" see S. 148 (1).

(d) for regulating the conditions on which the railway administration will carry passengers suffering from infectious or contagious disorders, and providing for the disinfection of carriages which have been used by such passengers ;

(e) for regulating the conduct of the railway servants ;

(f) for regulating the terms and conditions on which the railway administration will warehouse or retain goods at any station on behalf of the consignee or owner ; and,

(g) generally, for regulating the travelling upon, and the use, working and management of, the railway.*

(2) The rules may provide that any person committing a breach of any of them shall be punished with fine which may extend to any sum not exceeding fifty rupees,* and that, in the case of a rule made under clause (e) of sub-section (1), the railway servant shall forfeit a sum not exceeding one month's pay, which sum may be deducted by the railway administration from his pay.

(3) A rule made under this section shall not take effect until it has received the sanction of the Governor General in Council and been published in the Gazette of India :

Provided that, where the rule is in the terms of a rule which has already been published at length in the Gazette of India, a notification in that Gazette referring to the rule already published and announcing the adoption thereof shall be deemed a publication of a rule in the Gazette of India within the meaning of this sub-section.

(4) The Governor General in Council may cancel any rule made under this section, and the authority required by sub-section (1) to make rules thereunder may at any time, with the previous sanction of the Governor General in Council, rescind or vary any such rule.*

(5) Every rule purporting to have been made for any railway under section 8 of the Indian Railway Act, 1879,* and appearing from the Gazette of India to be intended to apply to the railway at the commencement of this Act, shall, notwithstanding any irregularity in the making or publication of the rule, be deemed to have been made and to have taken effect under this section.

(6) Every railway administration shall keep at each station on its railway a copy of the general rules for the time being in force under this section on the railway, and shall allow any person to inspect it free of charge at all reasonable times.

48. Where two or more railway administrations whose railways have a common terminus or a portion of the same line of rails in common, or form separate portions of one continued line of railway communication, are not able to agree upon arrangements

Disposal of differences between railways regarding conduct of joint traffic.

for conducting at such common terminus, or at the point of junction between them, their joint traffic with safety to the public, the Governor General in Council, upon the application of either or any of the administrations, may decide the matters in dispute between them, so far as those matters relate to the safety of the public, and may determine whether the whole or what proportion of the expenses attending on such arrangements shall be borne by either or any of the administrations respectively.

¹cf 42 & 43 Vic. c. 41
s. 4 (d) ¹49. Any railway company, not being a company for which the Statute 42 and 43 Victoria, chapter 41, provides, may from time to time make and carry into effect agreements with the Governor General in Council for the construction of rolling-stock, plant or machinery used on, or in connection with, railways, or for leasing or taking on lease any rolling-stock, plant, machinery or equipments required for use on a railway, or for the maintenance of rolling-stock.

plant or machinery used on, or in connection with, railways, or for leasing or taking on lease any rolling-stock, plant, machinery or equipments required for use on a railway, or for the maintenance of rolling-stock.

²cf 42 & 43 Vic. c. 41
s. 4 (d) ²50. Any railway company, not being a company for which the Statute 42 and 43 Victoria, chapter 41, provides, may from time to time make with the Governor General in Council, and carry into effect, or, with the sanction of the Governor General in Council, make with any other railway administration, and carry into effect, any agreement with respect to any of the following purposes, namely :—

- (a) the working, use, management and maintenance of any railway;
- (b) the supply of rolling-stock and machinery necessary for any of the purposes mentioned in clause (a) and of officers and servants for the conduct of the traffic of the railway;
- (c) the payments to be made and the conditions to be performed with respect to such working, use, management and maintenance;
- (d) the interchange, accommodation and conveyance of traffic being on, coming from or intended for the respective railways of the contracting parties, and the fixing, collecting, apportionment and appropriation of the revenues arising from that traffic;
- (e) generally, the giving effect to any such provisions or stipulations with respect to any of the purposes hereinbefore in this section mentioned as the contracting parties may think fit and mutually agree on :

Provided that the agreement shall not affect any of the rates which the railway administrations, parties thereto, are from time to time respectively authorized to demand and receive from any person, and that every person shall, notwithstanding the agreement, be entitled to the use and benefit of the

railways of any railway administrations, parties to the agreement, on the same terms and conditions, and on payment of the same rates, as he would be if the agreement had not been entered into.

51. Any railway company, not being a company for which the Statute^{4/42 & 43 Vic} 42 and 43 Victoria, chapter 41, provides, may^{c. 41 S. 4} from time to time exercise with the sanction of the Governor General in Council all or any of the following powers, namely:—

Establishment of ferries and roadways for accommodation of traffic.

- (a) it may establish, for the accommodation of the traffic of its railway, any ferry equipped with machinery and plant of good quality and adequate in quantity to work the ferry;
- (b) it may work for purposes other than the accommodation of the traffic of the railway any ferry established by it under this section;
- (c) it may provide and maintain on any of its bridges roadways for foot-passengers, cattle, carriages, carts or other traffic;
- (d) it may construct and maintain roads for the accommodation of traffic passing to or from its railway;
- (e) it may provide and maintain any means of transport which may be required for the reasonable convenience of passengers, animals or goods carried or to be carried on its railway;
- (f) it may charge tolls² on the traffic using such ferries, roadways,^{See 7/11/01 S. 2 (4)} roads or means of transport as it may provide under this section, according to tariffs to be arranged from time to time with the sanction of the Governor General in Council.

52. Every railway administration shall, in forms to be prescribed by^{3 Cf 3 & 4 Vic c. 97} the Governor General in Council, prepare, half-yearly or at such intervals as the Governor General in Council may prescribe, such returns of its capital and revenue transactions and of its traffic as the Governor General in Council may require, and shall forward a copy of such returns to the Governor General in Council at such times as he may direct.^{8. 3 31 Dec 1899 55. 3 & 4 34 & 35 Vic c. 78 55 9 & 10.}

Carriage of Property.

53. (1) Every railway administration shall determine the maximum^{5 Cf 5 & 6 Vic c. 55. 8. 16} load for every wagon or truck in its possession, and shall exhibit the words or figures representing the load so determined in a conspicuous manner on the outside of every such wagon or truck.

(2) Every person owning a wagon or truck which passes over a railway shall similarly determine and exhibit the maximum load for the wagon or truck.

(3) The gross weight of any such wagon or truck bearing on the axles when the wagon or truck is loaded to such maximum load shall not exceed such limit as may be fixed by the Governor General in Council for the class of axle under the wagon or truck.

54. (1) Subject to the control of the Governor General in Council, a railway administration may impose conditions, not inconsistent with this Act or with any general rule thereunder, with respect to the receiving, forwarding or delivering of any animals or goods.

Power for railway administrations to impose conditions for working traffic.

(2) The railway administration shall keep at each station on its railway a copy of the conditions for the time being in force under sub-section (1) at the station, and shall allow any person to inspect it free of charge at all reasonable times.

(3) A railway administration shall not be bound to carry any animal suffering from any infectious or contagious disorder.

55. (1) If a person fails to pay on demand made by or on behalf of a railway administration any rate, terminal or other charge due from him in respect of any animals or goods, the railway administration may detain the whole or any of the animals or goods, or, if they have been removed from the railway, any other animals or goods of such person then being in or thereafter coming into its possession.

Lien for rates, terminals and other charges.

(2) When any animals or goods have been detained under sub-section (1), the railway administration may sell by public auction, in the case of perishable goods at once, and in the case of other goods or of animals on the expiration of at least fifteen days' notice of the intended auction, published in one or more of the local newspapers or, where there are no such newspapers, in such manner as the Governor General in Council may prescribe, sufficient of such animals or goods to produce a sum equal to the charge, and all expenses of such detention, notice and sale, including, in the case of animals, the expenses of the feeding, watering and tending thereof.

(3) Out of the proceeds of the sale the railway administration may retain a sum equal to the charge and the expenses aforesaid, rendering the surplus, if any, of the proceeds, and such of the animals or goods (if any) as remain unsold, to the person entitled thereto.

(4) If a person on whom a demand for any rate, terminal or other charge due from him has been made fails to remove from the railway within a reasonable time any animals or goods which have been detained under sub-section (1), or any animals or goods which have remained unsold after a sale under sub-section (2), the railway administration may sell the whole of them and dispose of the proceeds of the sale as nearly as may be under the provisions of sub-section (3).

(5) Notwithstanding anything in the foregoing sub-sections, the railway administration may recover by suit any such rate, terminal or other charge as aforesaid or balance thereof.

56. (1) When any animals or goods have come into the possession of a railway administration for carriage or otherwise and are not claimed by the owner or other person appearing to the railway administration to be entitled thereto, the railway administration shall, if such owner or person is known, cause a notice to be served upon him requiring him to remove the animals or goods.

(2) If such owner or person is not known, or the notice cannot be served upon him, or he does not comply with the requisition in the notice, the railway administration may, within a reasonable time, subject to the provisions of any other enactment for the time being in force, sell the animals or goods as nearly as may be under the provisions of the last foregoing section, rendering the surplus, if any, of the proceeds of the sale to any person entitled thereto.

57. Where any animals, goods or sale-proceeds in the possession of a railway administration are claimed by two or more persons, or the ticket or receipt given for the animals or goods is not forthcoming, the railway administration may withhold delivery of the animals, goods or sale-proceeds until the person entitled in its opinion to receive them has given an indemnity, to the satisfaction of the railway administration, against the claims of any other person with respect to the animals, goods or sale-proceeds.

58. (1) The owner or person having charge of any goods which are brought upon a railway for the purpose of being carried thereon, and the consignee of any goods which have been carried on a railway, shall, on the request of any railway servant appointed in this behalf by the railway administration, deliver to such servant an account in writing signed by such owner or person, or by such consignee, as the case may be, and containing such a description of the goods as may be sufficient to determine the rate which the railway administration is entitled to charge in respect thereof.

(2) If such owner, person or consignee refuses or neglects to give such an account, and refuses to open the parcel or package containing the goods in order that their description may be ascertained, the railway administration may, (a) in respect of goods which have been brought for the purpose of being carried on the railway, refuse to carry the goods unless in respect thereof a rate is paid not exceeding the highest rate which may be in force at the time on the railway for any class of goods or, (b) in respect of goods which have been carried on the railway, charge a rate not exceeding such highest rate.

(3) If an account delivered under sub-section (1) is materially false with respect to the description of any goods to which it purports to relate, and which have been carried on the railway, the railway administration may charge in respect of the carriage of the goods a rate not exceeding double the highest rate which may be in force at the time on the railway for any class of goods.

Cf 8-9 Vi
c. 26 1-10 (4) If any difference arises between a railway servant and the owner or person having charge, or the consignee, of any goods which have been brought to be carried or have been carried on a railway, respecting the description of goods of which an account has been delivered under this section, the railway servant may detain and examine the goods.

(5) If it appears from the examination that the description of the goods is different from that stated in an account delivered under sub-section (1), the person who delivered the account, or, if that person is not the owner of the goods, then that person and the owner jointly and severally, shall be liable to pay to the railway administration the cost of the detention and examination of the goods, and the railway administration shall be exonerated from all responsibility for any loss which may have been caused by the detention or examination thereof.

(6) If it appears that the description of the goods is not different from that stated in an account delivered under sub-section (1), the railway administration shall pay the cost of the detention and examination, and be responsible to the owner of the goods for any such loss as aforesaid.

59. (1) No person shall be entitled to take with him, or to require a railway administration to carry, any dangerous or offensive goods. Dangerous or offensive goods. ous or offensive goods upon a railway.

(2) No person shall take any such goods with him upon a railway without giving notice of their nature to the station-master or other railway servant in charge of the place where he brings the goods upon the railway, or shall tender or deliver any such goods for carriage upon a railway without distinctly marking their nature on the outside of the package containing them or otherwise giving notice in writing of their nature to the railway servant to whom he tenders or delivers them.

18/96 d.3
(3) Any railway servant may refuse to receive such goods for carriage and, when such goods have been so received without such notice as is mentioned in sub-section (2) having to his knowledge been given, may refuse to carry them or may stop their transit.

(4) If any railway servant has reason to believe any such goods to be contained in a package with respect to the contents whereof such notice as is mentioned in sub-section (2) has not to his knowledge been given, he may cause the package to be opened for the purpose of ascertaining its contents.

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63. Every railway administration shall fix, subject to the approval of the Governor General in Council, the maximum number of passengers which may be carried in each compartment of every description of carriage, and shall exhibit the number so fixed in a conspicuous manner inside or outside each compartment, in English or in one or more of the vernacular languages in common use in the territory traversed by the railway, or both in English and in one or more of such vernacular languages, as the Governor General in Council, after consultation with the railway administration, may determine.

64. (1) On and after the first day of January, 1891, every railway administration shall in every train carrying passengers reserve for the exclusive use of females one compartment at least of the lowest class of carriage forming part of the train.

(2) One such compartment so reserved shall, if the train is to run for a distance exceeding fifty miles, be provided with a closet.

65. Every railway administration shall cause to be posted in a conspicuous and accessible place at every station on its railway, in English and in a vernacular language in common use in the territory where the station is situate, a copy of the time-tables for the time being in force on the railway, and lists of the fares chargeable for travelling from the station where the lists are posted to every place for which card-tickets are ordinarily issued to passengers at that station.

66. (1) Every person desirous of travelling on a railway shall, upon payment of his fare, be supplied with a ticket, specifying the class of carriage for which, and the place from and the place to which, the fare has been paid, and the amount of the fare.

(2) The matters required by sub-section (1) to be specified on a ticket shall be set forth—

(a) if the class of carriage to be specified thereon is the lowest class, then in a vernacular language in common use in the territory traversed by the railway, and

(b) if the class of carriage to be so specified is any other than the lowest class, then in English.

Provision for case in which tickets have been issued for trains not having room available for additional passengers.

67. (1) Fares shall be deemed to be accepted, and tickets to be issued, subject to the condition of there being room available in the train for which the tickets are issued.

(2) A person to whom a ticket has been issued and for whom there is not room available in the train for which the ticket was issued shall, on returning the ticket within three hours after the departure of the train, be entitled to have his fare at once refunded.

(3) A person for whom there is not room available in the class of carriage for which he has purchased a ticket and who is obliged to travel in a carriage of a lower class shall be entitled on delivering up his ticket to a refund of the difference between the fare paid by him and the fare payable for the class of carriage in which he travelled.

68. No person shall, without the permission of a railway servant, enter any carriage on a railway for the purpose of travelling therein as a passenger unless he has with him a proper pass or ticket.

Prohibition against travelling without pass or ticket.

69. Every passenger by railway shall, on the requisition of any railway servant appointed by the railway administration in this behalf, present his pass or ticket to the railway servant for examination, and at or near the end of the journey for which the pass or ticket was issued, or, in the case of a season pass or ticket, at the expiration of the period for which it is current, deliver up the pass or ticket to the railway servant.

Exhibition and surrender of passes and tickets.

70. A return ticket or season ticket shall not be transferable and may be used only by the person for whose journey to and from the places specified thereon it was issued.

Return and season tickets.

71. (1) A railway administration may refuse to carry, except in accordance with the conditions prescribed under section 47, sub-section (1), clause (d), a person suffering from any infectious or contagious disorder.

Power to refuse to carry persons suffering from infectious or contagious disorder.

(2) A person suffering from such a disorder shall not enter or travel upon a railway without the special permission of the station-master or other railway servant in charge of the place where he enters upon the railway.

(3) A railway servant giving such permission as is mentioned in sub-section (2) must arrange for the separation of the person suffering from the disorder from other persons being or travelling upon the railway.

CHAPTER VII.

RESPONSIBILITY OF RAILWAY ADMINISTRATIONS AS CARRIERS.

72. (1) The responsibility of a railway administration for the loss, destruction or deterioration of animals or goods delivered to the administration to be carried by railway shall, subject to the other provisions of this Act, be that of a bailee under sections 151, 152 and 161 of the Indian Contract Act, 1872.

Measure of the general responsibility of a railway administration as a carrier of animals and goods.

(2) An agreement purporting to limit that responsibility shall, in so far as it purports to effect such limitation, be void, unless it—

(a) is in writing signed by or on behalf of the person sending or delivering to the railway administration the animals or goods, and

(b) is otherwise in a form approved by the Governor General in Council.

(3) Nothing in the common law of England or in the Carriers Act, 1865, regarding the responsibility of common carriers with respect to the carriage of animals or goods, shall affect the responsibility as in this section defined of a railway administration.

1873. (1) The responsibility of a railway administration under the last

Further provision with respect to the liability of a railway administration as a carrier of animals.

foregoing section for the loss, destruction or deterioration of animals delivered to the administration to be carried on a railway shall not in any case exceed, in the case of elephants or

horses, five hundred rupees a head or, in the case of camels or horned cattle, fifty rupees a head or, in the case of sheep, goats, dogs or other animals, ten rupees a head, unless the person sending or delivering them to the administration caused them to be declared, or declared them, at the time of their delivery for carriage by railway, to be respectively of higher value than five hundred, fifty or ten rupees a head, as the case may be.

(2) Where such higher value has been declared, the railway administration may charge, in respect of the increased risk, a percentage upon the excess of the value so declared over the respective sums aforesaid.

(3) In every proceeding against a railway administration for the recovery of compensation for the loss, destruction or deterioration of any animal the burden of proving the value of the animal and, where the animal has been injured, the extent of the injury shall lie upon the person claiming the compensation.

74. A railway administration shall not be responsible for the loss, destruction or deterioration of any luggage belonging to or in charge of a passenger unless a railway servant has booked and given a receipt therefor.

Further provision with respect to the liability of a railway administration as a carrier of articles of special value.

75. (1) When any articles mentioned in the second schedule are contained in any parcel or package delivered to a railway administration for carriage by railway, and the value of such articles in the parcel or package exceeds one hundred rupees, the railway

administration shall not be responsible for the loss, destruction or deterioration of the parcel or package unless the person sending or delivering the parcel or package to the administration caused its value and contents to be declared or declared them at the time of the delivery of the parcel or package

for carriage by railway, and, if so required by the administration, paid or engaged to pay a percentage on the value so declared by way of compensation for increased risk.

(2) When any parcel or package of which the value has been declared under sub-section (1) has been lost or destroyed or has deteriorated, the compensation recoverable in respect of such loss, destruction or deterioration shall not exceed the value so declared, and the burden of proving the value so declared to have been the true value shall, notwithstanding anything in the declaration, lie on the person claiming the compensation.

(3) A railway administration may make it a condition of carrying a parcel declared to contain any article mentioned in the second schedule that a railway servant authorized in this behalf has been satisfied by examination or otherwise that the parcel actually contains the article declared to be therein.

76. In any suit against a railway administration for compensation for loss, destruction or deterioration of animals or goods delivered to a railway administration for carriage by railway, it shall not be necessary for the plaintiff to prove how the loss, destruction or deterioration was caused.

Burden of proof in suits in respect of loss of animals or goods.

77. A person shall not be entitled to a refund of an overcharge in respect of animals or goods carried by railway or to compensation for the loss, destruction or deterioration of animals or goods delivered to be so carried, unless his claim to the refund or compensation has been preferred in writing by him or on his behalf to the railway administration within six months from the date of the delivery of the animals or goods for carriage by railway.

Notification of claims to refunds of overcharges and to compensation for losses.

78. Notwithstanding anything in the foregoing provisions of this Chapter, a railway administration shall not be responsible for the loss, destruction or deterioration of any goods with respect to the description of which an account materially false has been delivered under sub-section (1) of section 58 if the loss, destruction or deterioration is in any way brought about by the false account, nor in any case for an amount exceeding the value of the goods if such value were calculated in accordance with the description contained in the false account.

Exoneration from responsibility in case of goods falsely described.

79. Where an officer, soldier or follower, while being or travelling as such on duty upon a railway belonging to, and worked by, the Government, loses his life or receives any personal injury in such circumstances that if he were not an officer, soldier or follower being or travelling as such on duty upon the railway compensation would be payable under Act No. XIII. of 1855 or to him, as the case may be,

Settlement of compensation for injuries to officers, soldiers and followers on duty.

the form and amount of the compensation to be made in respect of the loss of his life or his injury shall, where there is any provision in this behalf in the military regulations to which he was immediately before his death, or is, subject, be determined in accordance with those regulations, and not otherwise.

80. Notwithstanding anything in any agreement purporting to limit the liability of a railway administration with respect to traffic while on the railway of another administration, a suit for compensation for loss of the life of, or personal injury to, a passenger, or for loss, destruction or deterioration of animals or goods, where the passenger was or the animals or goods were booked through over the railways of two or more railway administrations, may be brought either against the railway administration from which the passenger obtained his pass or purchased his ticket, or to which the animals or goods were delivered by the consignor thereof, as the case may be, or against the railway administration on whose railway the loss, injury, destruction or deterioration occurred.

81. ~~Where a railway administration under contract to carry animals or goods by any inland water procures the same to be carried in a vessel which is not a railway as defined in this Act, the responsibility of the railway administration for the loss, destruction or deterioration of the animals or goods during their carriage in the vessel shall be the same as if the vessel were such a railway.~~

2 *cf 31032 Vic. c 119 s. 14*
 3 *cf 35 Vic. c 78 s. 12*
 3 *See now 57 s 58 Vic c 60.*
 182. (1) When a railway administration contracts to carry passengers, animals or goods partly by railway and partly by sea, a condition exempting the railway administration from responsibility for any loss of life, personal injury or loss of or damage to animals or goods which may happen during the carriage by sea from the act of God, the King's enemies, fire, accidents from machinery, boilers and steam and all and every other dangers and accidents of the seas, rivers and navigation of whatever nature and kind soever shall, without being expressed, be deemed to be part of the contract, and, subject to that condition, the railway administration shall, irrespective of the nationality or ownership of the ship used for the carriage by sea, be responsible for any loss of life, personal injury or loss of or damage to animals or goods which may happen during the carriage by sea, to the extent to which it would be responsible under the Merchant Shipping Act, 1854,³ and the Merchant Shipping Act Amendment Act, 1862, if the ship were registered under the former of those Acts and the railway administration were owner of the ship, and not to any greater extent.

(2) The burden of proving that any such loss, injury or damage as is mentioned in sub-section (1) happened during the carriage by sea shall lie on the railway administration.

CHAPTER VIII.

ACCIDENTS.

Report of railway accidents. 83. When any of the following accidents occur in the course of working a railway, namely:— *cf 34+35/11c. 978 s. 6.*

- (a) any accident attended with loss of human life, or with grievous hurt as defined in the Indian Penal Code, or with serious injury to property;
- (b) any collision between trains of which one is a train carrying passengers;
- (c) the derailment of any train carrying passengers, or of any part of such a train;
- (d) any accident of a description usually attended with loss of human life, or with such grievous hurt as aforesaid, or with serious injury to property;
- (e) any accident of any other description which the Governor General in Council may notify in this behalf in the Gazette of India;

the railway administration working the railway and, if the accident happens to a train belonging to any other railway administration, the other railway administration also shall, without unnecessary delay, send notice of the accident to the Local Government and to the Inspector appointed for the railway; and the station-master nearest to the place at which the accident occurred or, where there is no station-master, the railway servant in charge of the section of the railway on which the accident occurred shall, without unnecessary delay, give notice of the accident to the Magistrate of the district in which the accident occurred, and to the officer in charge of the police-station within the local limits of which it occurred, or to such other Magistrate and police-officer as the Governor General in Council appoints in this behalf.

Power to make rules regarding notices of and inquiries into accidents.

84. The Governor General in Council may make rules,¹ consistent with this Act and any *2a 643, 1075* other enactment for the time being in force, for *P. 2-11 366498* all or any of the following purposes, namely:—

- (a) for prescribing the forms of the notices mentioned in the last foregoing section, and the particulars of the accident which those notices are to contain;
- (b) for prescribing the class of accidents of which notice is to be sent by telegraph immediately after the accident has occurred;
- (c) for prescribing the duties of railway servants, police-officers, Inspectors and Magistrates on the occurrence of an accident.

S. 83.—For the meaning of the expression " railway servant " see S. 148 (2).

Ss. 83—92.—For the meaning of the word " railway " see S. 148 (1).

85. Every railway administration shall send to the Governor General in Council a return of accidents occurring upon its railway, whether attended with personal injury or not, in such form and manner and at

such intervals of time as the Governor General in Council directs.

86.² Whenever any person injured by an accident on a railway claims compensation on account of the injury, any Court or person having by law or consent of parties authority to determine the claim may order that the person injured be examined by some duly qualified medical practitioner named in the order and not being a witness on either side, and may make such order with respect to the costs of the examination as it or he thinks fit.

CHAPTER IX.

PENALTIES AND OFFENCES.

Forfeitures by Railway Companies.

87. If a railway company fails to comply with any requisition made under section 13, it shall forfeit to the Government the sum of two hundred rupees for the default and a further sum of fifty rupees for every day after the first during which the default continues.

88. If a railway company moves any rolling-stock upon a railway by steam or other motive power in contravention of section 16, sub-section (2), or opens or uses any railway or work in contravention of section 18, section 19, section 20 or section 21, or re-opens any railway or uses any rolling-stock in contravention of section 24, it shall forfeit to the Government the sum of two hundred rupees for every day during which the motive power, railway, work or rolling-stock is used in contravention of any of those sections.

89. If a railway company fails to comply with the provisions of section 47, sub-section (6), section 54, sub-section (2), or section 65, with respect to the books or other documents to be kept open to inspection or conspicuously posted at stations on its railway, it shall forfeit to the Government the sum of fifty rupees for every day during which the default continues.

90. If a railway company fails to comply with the provisions of section 47 with respect to the making of general rules, it shall forfeit to the Government the sum of fifty rupees for every day during which the default continues.

Penalty for not making rules as required by section 47.

91. If a railway company refuses or neglects to comply with any decision of the Governor General in Council under section 48, it shall forfeit to the Government the sum of two hundred rupees for every day during which the refusal or neglect continues.

Penalty for failure to comply with decision under section 48.

92. If a railway company fails to comply with the provisions of section 52 or section 85 with respect to the submission of any return, it shall forfeit to the Government the sum of fifty rupees for every day during which the default continues after the fourteenth day from the date prescribed for the submission of the return.

Penalty for delay in submitting returns under section 52 or 85.

93. If a railway company contravenes the provisions of section 53 or section 63, with respect to the maximum load to be carried in any wagon or truck, or the maximum number of passengers to be carried in any compartment, or the exhibition of such load on the wagon or truck or of such number in or on the compartment, or knowingly suffers any person owning a wagon or truck passing over its railway to contravene the provisions of the former of those sections, it shall forfeit to the Government the sum of twenty rupees for every day during which either section is contravened.

Penalty for neglect of provisions of section 53 or 63 with respect to carrying capacity of rolling-stock.

94.² If a railway company fails to comply with any requisition of the Governor General in Council under section 62 for the provision and maintenance in proper order, in any train worked by it which carries passengers, of such efficient means of communication as the Governor General in Council has approved, it shall forfeit to the Government the sum of twenty rupees for each train run in disregard of the requisition.

Penalty for failure to comply with requisition under section 62 for maintenance of means of communication between passengers and railway servants.

95. If a railway company fails to comply with the requirements of section 64 with respect to the reservation of compartments for females or the provision of closets therein, it shall forfeit to the Government the sum of twenty rupees for every train in respect of which the default occurs.

Penalty for failure to reserve compartments for females under section 64.

96. If a railway company omits to give such notice of an accident as is required by section 83 and the rules for the time being in force under section 84, it shall forfeit to the Government the sum of one hundred rupees for every day during which the omission continues.

Penalty for omitting to give the notices of accidents required by section 83 and under section 84.

97. (1) When a railway company has through any act or omission forfeited any sum to the Government under the foregoing provisions of this Chapter, the sum shall be recoverable by suit in the District Court having jurisdiction in the place where the act or omission or any part thereof occurred.

Recovery of penalties.

(2) The suit must be instituted with the previous sanction of the Governor General in Council, and the plaintiff therein shall be the Secretary of State for India in Council.

(3) The Governor General in Council may remit the whole or any part of any sum forfeited by a railway company to the Government under the foregoing provisions of this Chapter.

98. Nothing in those provisions shall be construed to preclude the Government from resorting to any other mode of proceeding instead of, or in addition to, such a suit as is mentioned in the last foregoing section, for the purpose of compelling a railway company to discharge any obligation imposed upon it by this Act.

Alternative or supplementary character of remedies afforded by the foregoing provisions of this Chapter.

Offences by Railway Servants.

¹ Cf. ss. 60-61, 197. 99. If a railway servant whose duty it is to comply with the provisions of section 60 negligently or wilfully omits to comply therewith, he shall be punished with fine which may extend to twenty rupees.

Breach of duty imposed by section 60.

100. If a railway servant is in a state of intoxication while on duty, he shall be punished with fine which may extend to fifty rupees, or, where the improper performance of the duty would be likely to endanger the safety of any person travelling or being upon a railway, with imprisonment for a term which may extend to one year, or with fine, or with both.

Drunkenness.

² 101. If a railway servant, when on duty, endangers the safety of any person—

Endangering the safety of persons.

(a) by disobeying any general rule made, sanctioned, published and notified under this Act, or

Ss. 96—98 and 100, 101.—For the meaning of the word "railway" see S. 148 (1).

Ss. 100, 101.—For the meaning of the expression "railway servant" see S. 148. (2).

(b) by disobeying any rule or order which is not inconsistent with any such general rule, and which such servant was bound by the terms of his employment to obey, and of which he had notice, or

(c) by any rash or negligent act or omission,

he shall be punished with imprisonment for a term which may extend to two years, or with fine which may extend to five hundred rupees, or with both.

102. If a railway servant compels or attempts to compel, or causes, any passenger to enter a compartment which already contains the maximum number of passengers exhibited therein or thereon under section 63, he shall be punished with fine which may extend to twenty rupees.

Compelling passengers to enter carriages already full.

103. If a station-master or a railway servant in charge of a section of a railway omits to give such notice of an accident as is required by section 83 and the rules for the time being in force under section 84, he shall be punished with fine which may extend to fifty rupees.

Omission to give notice of accident.

Obstructing level-crossings.

104. If a railway servant unnecessarily—^{16f 26127 Kc.c92 a.6}
(a) allows any rolling-stock to stand across a place where the railway crosses a public road on the level, or

(b) keeps a level-crossing closed against the public,

he shall be punished with fine which may extend to twenty rupees.

¹105. If any return which is required by this Act is false in any particular to the knowledge of any person who signs it, that person shall be punished with fine which may extend to five hundred rupees, or with imprisonment which may extend to one year, or with both.

False returns.

Other Offences.

³106. If a person requested under section 58 to give an account with respect to any goods gives an account which is materially false, he and, if he is not the owner of the goods, the owner also shall be punished with fine which may extend to ten rupees for every maund or part of a maund of the goods, and the fine shall be in addition to any rate or other charge to which the goods may be liable.

Giving false account of goods.

⁴107. If in contravention of section 59 a person takes with him any dangerous or offensive goods upon a railway, or tenders or delivers any such goods for carriage upon a railway, he shall be punished with fine which may extend to five hundred

Unlawfully bringing dangerous or offensive goods upon a railway.

Ss. 103, 104 and 107.—For the meaning of the word "railway" see S. 148 (1).

Ss. 103, 104.—For the meaning of the expression "railway servant" see S. 148 (2).

rupees, and shall also be responsible for any loss, injury or damage which may be caused by reason of such goods having been so brought upon the railway.

¹ cf 310 & 312 c 19
a 22.

¹108. If a passenger, without reasonable and sufficient cause, makes use of or interferes with any means provided by a railway administration for communication between passengers and the railway servants in charge of a train, he shall be punished with fine which may extend to fifty rupees.

Needlessly interfering with means of communication in a train.

109. (1) If a passenger, having entered a compartment which is reserved by a railway administration for the use of another passenger, or which already contains the maximum number of passengers exhibited therein or thereon under section 63, refuses to leave it when required to do so by any railway servant, he shall be punished with fine which may extend to twenty rupees.

Entering compartment reserved or already full or resisting entry into a compartment not full.

(2) If a passenger resists the lawful entry of another passenger into a compartment not reserved by the railway administration for the use of the passenger resisting or not already containing the maximum number of passengers exhibited therein or thereon under section 63, he shall be punished with fine which may extend to twenty rupees.

110. (1) If a person, without the consent of his fellow-passengers, if any, in the same compartment, smokes in any compartment except a compartment specially provided for the purpose, he shall be punished with fine which may extend to twenty rupees.

Smoking.

(2) If any person persists in so smoking after being warned by any railway servant to desist, he may, in addition to incurring the liability mentioned in sub-section (1), be removed by any railway servant from the carriage in which he is travelling.

² cf 309 & 312 c 16
a 146.

²111. If a person, without authority in this behalf, pulls down or willfully injures any board or document set up or posted by order of a railway administration on a railway or any rolling-stock, or obliterates or alters any of the letters or figures upon any such board or document, he shall be punished with fine which may extend to fifty rupees.

Defacing public notices.

³ cf 309 & 312 c 16
a 146.

Fraudulently travelling or attempting to travel without proper pass or ticket.

³112. If a person, with intent to defraud a railway administration,—

(a) enters in contravention of section 68 any carriage on a railway, or

- (b) uses or attempts to use a single pass or single ticket which has already been used on a previous journey or, in the case of a return-ticket, a half thereof which has already been so used,

he shall be punished with fine which may extend to one hundred rupees in addition to the amount of the single fare for any distance which he may have travelled.

113. (1) If a passenger travels in a train without having a proper *cf. French* pass or a proper ticket with him, or, being in *German Rail.* or having alighted from a train, fails or refuses *way law* to present for examination or to deliver up his

Travelling without pass or ticket or with insufficient pass or ticket or beyond authorized distance.

pass or ticket immediately on requisition being made therefor under section 69, he shall be liable to pay, on the demand of any railway servant appointed by the railway administration in this behalf, the excess charge hereinafter in this section mentioned, in addition to the ordinary single fare for the distance which he has travelled or, where there is any doubt as to the station from which he started, the ordinary single fare from the station from which the train originally started, or, if the tickets of passengers travelling in the train have been examined since the original starting of the train, the ordinary single fare from the place where the tickets were examined or, in case of their having been examined more than once, were last examined.

(2) If a passenger travels or attempts to travel in or on a carriage, or by a train, of a higher class than that for which he has obtained a pass or purchased a ticket, or travels in or on a carriage beyond the place authorized by his pass or ticket, he shall be liable to pay, on the demand of any railway servant appointed by the railway administration in this behalf, the excess charge hereinafter in this section mentioned, in addition to any difference between any fare paid by him and the fare payable in respect of such journey as he has made.

(3) The excess charge referred to in sub-section (1) and sub-section (2) shall—

- (a) where the passenger has immediately after incurring the charge and before being detected by a railway servant notified to the railway servant on duty with the train the fact of the charge having been incurred, be one rupee, two annas or eight annas, and

- (b) in any other case, be six rupees, one rupee or three rupees,

according as the passenger is travelling or has travelled or has attempted to travel in a carriage of the highest class or in a carriage of the lowest class or in a carriage of any other class or kind:

Provided that such excess charge shall in no case exceed,—

- (a) where the liability to pay it arises under sub-section (1), the amount of the ordinary single fare which the passenger incurring the charge is liable to pay under that sub-section, or,
- (b) where such liability arises under sub-section (2), the amount of the difference between the fare paid by the passenger incurring the charge and the fare payable in respect of such journey as he has made.

(4) If a passenger liable to pay the excess charge and fare mentioned in sub-section (1), or the excess charge and any difference of fare mentioned in sub-section (2), fails or refuses to pay the same on demand being made therefor under one or other of those sub-sections, as the case may be, the sum payable by him shall, on application made to any Magistrate by any railway servant appointed by the railway administration in this behalf, be recovered by the Magistrate from the passenger as if it were a fine imposed on the passenger by the Magistrate and shall, as it is recovered, be paid to the railway administration.

114. If a person sells or attempts to sell, or parts or attempts to part with the possession of, ~~the return~~ ^{3 day} half of a return ticket in order to enable any other person to travel therewith, or purchases such half of a return ticket, he shall be punished with fine which may extend to fifty rupees, and, if the purchaser of such half of a return ticket travels or attempts to travel therewith, he shall be punished with an additional fine which may extend to the amount of the single fare for the ~~return~~ ^{3 day} journey authorized by the ticket.

115. That portion of any fine imposed under section 112 or the last foregoing section which represents the single fare therein mentioned shall, as the fine is recovered, be paid to the railway administration before any portion of the fine is credited to the Government.

116. If a passenger wilfully alters or defaces his pass or ticket so as to render the date, number or any material portion thereof illegible, he shall be punished with fine which may extend to fifty rupees.

117. (1) If a person suffering from an infectious or contagious disorder enters or travels upon a railway in contravention of section 71, sub-section (2), he, and any person having charge of him upon the railway when he so entered or travelled thereon, shall be punished with fine which may extend to twenty rupees, in addition to the

forfeiture of any fare which either of them may have paid, and of any pass or ticket which either of them may have obtained or purchased, and may be removed from the railway by any railway servant.

(2) If any such railway servant as is referred to in section 71, sub-section (2), knowing that a person is suffering from any infectious or contagious disorder, wilfully permits the person to travel upon a railway without arranging for his separation from other passengers, he shall be punished with fine which may extend to one hundred rupees.

118. (1) If a passenger enters or leaves, or attempts to enter or leave, any carriage while the train is in motion, or elsewhere than at the side of the carriage adjoining the platform or other place appointed by the railway administration for passengers to enter or leave the carriage, or opens the side-door of any carriage while the train is in motion, he shall be punished with fine which may extend to twenty rupees.

Entering carriage in motion, or otherwise improperly travelling on a railway. *Cf English bye-law 172/1*

(2) If a passenger, after being warned by a railway servant to desist, persists in travelling on the roof, steps or footboard of any carriage, or on an engine, or in any other part of a train not intended for the use of passengers, he shall be punished with fine which may extend to fifty rupees, and may be removed from the railway by any railway servant.

119. If a male person, knowing a carriage, compartment, room or other place to be reserved by a railway administration for the exclusive use of females, enters the place without lawful excuse, or, having entered it, remains therein after having been desired by any railway servant to leave it, he shall be punished with fine which may extend to one hundred rupees, in addition to the forfeiture of any fare which he may have paid and of any pass or ticket which he may have obtained or purchased, and may be removed from the railway by any railway servant.

Entering carriage or other place reserved for females.

120. If a person in any railway carriage or upon any part of a railway—

Drunkenness or nuisance on a railway.

- (a) is in a state of intoxication, or
- (b) commits any nuisance or act of indecency, or uses obscene or abusive language, or
- (c) wilfully and without lawful excuse interferes with the comfort of any passenger or extinguishes any lamp,

he shall be punished with fine which may extend to fifty rupees, in addition to the forfeiture of any fare which he may have paid and of any pass or ticket which he may have obtained or purchased, and may be removed from the railway by any railway servant.

¹cf 304 & 305 c. 97
s. 16
121. If a person wilfully obstructs or impedes any railway servant in the discharge of his duty, he shall be punished with fine which may extend to one hundred rupees.

Obstructing railway servant in his duty.

²cf 304 & 305 c. 97
s. 16.
122. (1) If a person unlawfully enters upon a railway, he shall be punished with fine which may extend to twenty rupees.

(2) If a person so entering refuses to leave the railway on being requested to do so by any railway servant, or by any other person on behalf of the railway administration, he shall be punished with fine which may extend to fifty rupees, and may be removed from the railway by such servant or other person.

123. If a driver or conductor of a tramcar, omnibus, carriage or other vehicle while upon the premises of a railway disobeys the reasonable directions of any railway servant or police-officer, he shall be punished with fine which may extend to twenty rupees.

Disobedience of omnibus drivers to directions of railway servants.

³cf 304 & 305
c. 20 & 25
Opening or not properly shutting gates.

³ 124. In either of the following cases, namely :—

- (a) if a person, knowing or having reason to believe that an engine or train is approaching along a railway, opens any gate set up on either side of the railway across a road, or passes or attempts to pass, or drives or takes, or attempts to drive or take, any animal, vehicle or other thing across the railway,
- (b) if, in the absence of a gate-keeper, a person omits to shut and fasten such a gate as aforesaid as soon as he and any animal, vehicle or other thing under his charge have passed through the gate,

the person shall be punished with fine which may extend to fifty rupees.

125. (1) The owner or person in charge of any cattle straying on a railway provided with fences suitable for the exclusion of cattle shall be punished with fine which may extend to five rupees for each head of cattle, in addition to any amount which may have been recovered or may be recoverable under the Cattle-trespass Act, 1871.

Cattle-trespass.

(2) If any cattle are wilfully driven, or knowingly permitted to be, on any railway otherwise than for the purpose of lawfully crossing the railway or for any other lawful purpose, the person in charge of the cattle or, at the option of the railway administration, the owner of the cattle shall be punished

Ss. 121, 122 and 125.—For the meaning of the expression "railway servant" see S. 148 (2).

Ss. 122 and 124 to 132.—For the meaning of the word "railway" see S. 148 (1).

with fine which may extend to ten rupees for each head of cattle, in addition to any amount which may have been recovered or may be recoverable under the Cattle-trespass Act, 1871.

(3) Any fine imposed under this section may, if the Court so directs, be recovered in manner provided by section 25 of the Cattle-trespass Act, 1871.

(4) The expression "public road" in sections 11 and 26 of the Cattle-trespass Act, 1871, shall be deemed to include a railway, and any railway servant may exercise the powers conferred on officers of police by the former of those sections.

(5) The word "cattle" has the same meaning in this section as in the Cattle-trespass Act, 1871.

Maliciously wrecking or attempting to wreck a train.

126. If a person unlawfully—

24 & 25 Vic. 97035
24 & 25 Vic. c. 100 s. 32

- (a) puts or throws upon or across any railway any wood, stone or other matter or thing, or
- (b) takes up, removes, loosens or displaces any rail, sleeper or other matter or thing belonging to any railway, or
- (c) turns, moves, unlocks or diverts any points or other machinery belonging to any railway, or
- (d) makes or shows, or hides or removes, any signal or light upon or near to any railway, or
- (e) does or causes to be done or attempts to do any other act or thing in relation to any railway,

with intent, or with knowledge that he is likely, to endanger the safety of any person travelling or being upon the railway, he shall be punished with transportation for life or with imprisonment for a term which may extend to ten years.

¹127. If a person unlawfully throws or causes to fall or strike at, against, into or upon any rolling-stock forming part of a train any wood, stone or other matter or thing with intent, or with knowledge that he is likely, to endanger the safety of any person being in or upon such rolling-stock or in or upon any other rolling-stock forming part of the same train, he shall be punished with transportation for life or with imprisonment for a term which may extend to ten years.

Maliciously hurting or attempting to hurt persons travelling by railway.

²128. If a person, by any unlawful act or by any wilful omission or neglect, endangers or causes to be endangered the safety of any person travelling or being upon any railway, or obstructs or causes to be obstructed or attempts to obstruct any rolling-

Endangering safety of persons travelling by railway by wilful act or omission.

stock upon any railway, he shall be punished with imprisonment for a term which may extend to two years.

129. If a person rashly or negligently does any act, or omits to do what he is legally bound to do, and the act or omission is likely to endanger the safety of any person travelling or being upon a railway, he shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

130. (1) If a minor under the age of twelve years is with respect to any railway guilty of any of the acts or omissions mentioned or referred to in any of the four last foregoing sections, he shall be deemed, notwithstanding anything in section 82 or section 83 of the Indian Penal Code, to have committed an offence, and the Court convicting him may, if it thinks fit, direct that the minor, if a male, shall be punished with whipping, or may require the father or guardian of the minor to execute, within such time as the Court may fix, a bond binding himself, in such penalty as the Court directs, to prevent the minor from being again guilty of any of those acts or omissions.

(2) The amount of the bond, if forfeited, shall be recoverable by the Court as if it were a fine imposed by itself.

(3) If a father or guardian fails to execute a bond under sub-section (1) within the time fixed by the Court, he shall be punished with fine which may extend to fifty rupees,

Procedure.

131. (1) If a person commits any offence mentioned in section 100, 101, 119, 120, 121, 126, 127, 128 or 129, or in section 130, sub-section (1), he may be arrested without warrant or other written authority by any railway servant or police-officer, or by any other person whom such servant or officer may call to his aid.

(2) A person so arrested shall, with the least possible delay, be taken before a Magistrate having authority to try him or commit him for trial.

132. (1) If a person commits any offence under this Act other than an offence mentioned in the last foregoing section, or fails or refuses to pay any excess charge or other sum demanded under section 113, and there is reason to believe that he will abscond, or his name and address are unknown, and he refuses on demand to give his name and address, or there is reason to believe that the name or address given by him is incorrect, any railway servant or police-officer, or any other person whom such railway servant or police-officer may call to his aid, may, without warrant or other written authority, arrest him.

(2) The person arrested shall be released on his giving bail, or, if his true name and address are ascertained, on his executing a bond without sureties, for his appearance before a Magistrate when required.

(3) If the person cannot give bail and his true name and address are not ascertained, he shall with the least possible delay be taken before the nearest Magistrate having jurisdiction.

(4) The provisions of Chapters XXXIX and XLII of the Code of Criminal Procedure, 1882, shall, so far as may be, apply to bail given and bonds executed under this section. *See 1882/98*

133. No Magistrate other than a Presidency Magistrate or than a Magistrate whose powers are not less than those of a Magistrate of the second class shall try any offence under this Act.

Magistrates having jurisdiction under Act.

134. (1) Any person committing any offence against this Act or any rule thereunder shall be triable for such offence in any place in which he may be or which the Local Government may notify in this behalf, as well as in any other place in which he might be tried under any law for the time being in force.

Place of trial.

(2) Every notification under sub-section (1) shall be published in the local official Gazette, and a copy thereof shall be exhibited for the information of the public in some conspicuous place at each of such railway stations as the Local Government may direct.

CHAPTER X.

SUPPLEMENTAL PROVISIONS.

135. Notwithstanding anything to the contrary in any enactment, or in any agreement or award based on any enactment, the following rules shall regulate the levy of taxes in respect of railways and from railway administrations in aid of the funds of local authorities, namely:—

Taxation of railways by local authorities.

(1) A railway administration shall not be liable to pay any tax in aid of the funds of any local authority unless the Governor General in Council has, by notification in the official Gazette, declared the railway administration to be liable to pay the tax.³ *See 1897/1328*

(2) While a notification of the Governor General in Council under clause (1) of this section is in force, the railway administration shall be liable to pay to the local authority either the tax mentioned in the notification or, in lieu thereof, such sum, if any, as an officer appointed in this behalf by the Governor General in Council may, having regard to all the circumstances of the case, from time to time determine to be fair and reasonable. *See 1891/1488, 1893/1899, 1890/1890, 1893/1893, 1894/1894*

S. 135.—See G. G. 1890, p. 565.

Ss. 134 to 138.—For the meaning of the word "railway" see S. 148 (1).

(3) The Governor General in Council may at any time revoke or vary a notification under clause (1) of this section.

(4) Nothing in this section is to be construed as debarring any railway administration from entering into a contract with any local authority for the supply of water or light, or for the scavenging of railway premises, or for any other service which the local authority may be rendering or be prepared to render within any part of the local area under its control.

(5) "Local authority" in this section means a local authority as defined in the General Clauses Act, 1887, and includes any authority legally entitled to or entrusted with the control or management of any fund for the maintenance of watchmen or for the conservancy of a river.

1 of 500310 c127
9.4
136. (1) None of the rolling-stock, machinery, plant, tools, fittings, materials or effects used or provided by a railway administration for the purpose of the traffic on its railway, or of its stations or workshops, shall be liable to be taken in execution of any decree or order of any Court, without the previous sanction of the Governor General in Council.

2 new clause in
was added by
17/96 0.7
(2) Nothing in sub-section (1) is to be construed as affecting the authority of any Court to attach the earnings of a railway in execution of a decree or order.

Railway servants to be public servants for the purposes of Chapter IX of the Indian Penal Code.

137. (1) Every railway servant shall be deemed to be a public servant for the purposes of Chapter IX of the Indian Penal Code.

(2) In the definition of "legal remuneration" in section 161 of that Code the word "Government" shall, for the purposes of sub-section (1), be deemed to include any employer of a railway servant as such.

(3) A railway servant shall not —

(a) purchase or bid for, either in person or by agent, in his own name or in that of another, or jointly or in shares with others, any property put up to auction under section 55 or section 56, or

(b) in contravention of any direction of the railway administration in this behalf, engage in trade.

(4) Notwithstanding anything in section 21 of the Indian Penal Code, a railway servant shall not be deemed to be a public servant for any of the purposes of that Code except those mentioned in sub-section (1).

3 of 500310 c20
5106.
138. If a railway servant is discharged or suspended from his office, or dies, absconds or absents himself, and he or his wife or widow, or any of his family or representatives, refuses or neglects, after notice in writing for that purpose, to deliver up to

S. 137 (1) (2) and (4) and S. 138.—For the meaning of the expression "railway servant" see S. 148 (2).

the railway administration, or to a person appointed by the railway administration in this behalf, any station, dwelling-house, office or other building with its appurtenances, or any books, papers or other matters, belonging to the railway administration and in the possession or custody of such railway servant at the occurrence of any such event as aforesaid, any Magistrate of the first class may, on application made by or on behalf of the railway administration, order any police-officer, with proper assistance, to enter upon the building and remove any person found therein and take possession thereof, or to take possession of the books, papers or other matters, and to deliver the same to the railway administration or a person appointed by the railway administration in that behalf.

139. Any notice, determination, direction, requisition, appointment, ^{cf 51+52 Ni} expression of opinion, approval or sanction to ^{c 25 & 53} be given or signified on the part of the Governor General in Council, for any of the purposes of, or in relation to, this Act, or any of the powers or provisions therein contained, shall be sufficient and binding if in writing signed by a Secretary, Deputy Secretary, Under-Secretary or Assistant Secretary to the Government of India, or by any other officer or servant authorized to act on behalf of the Governor General in Council in respect of the matters to which the same may relate, and the Governor General in Council shall not in any case be bound in respect of any of the matters aforesaid unless by some writing signed in manner aforesaid.

140. Any notice or other document required or authorized by this Act to be served on a railway administration may be served, in the case of a railway administered by the Government or a Native State, on the Manager and, in the case of a railway administered by a railway company, on the Agent in India of the railway company—

- (a) by delivering the notice or other document to the Manager or Agent, or
- (b) by leaving it at his office, or
- (c) by forwarding it by post in a prepaid letter addressed to the Manager or Agent at his office and registered under Part III of the Indian Post Office Act, 1866.²

3 141. Any notice or other document required or authorized by this Act to be served on any person by a railway administration may be served— ^{cf 8+9 Ni} ^{c 16 s 136. a} ^{8+9 Ni c 20} ^{s. 34}

- (a) by delivering it to the person, or
- (b) by leaving it at the usual or last known place of abode of the person, or

Ss. 140, 141.— For the meaning of the word " railway " see S. 148 (1).

(c) by forwarding it by post in a prepaid letter addressed to the person at his usual or last known place of abode and registered under Part III of the Indian Post Office Act, 1866.

142. Where a notice or other document is served by post, it shall be deemed to have been served at the time when the letter containing it would be delivered in the ordinary course of post, and in proving such service it shall be sufficient to prove that the letter containing the notice or other document was properly addressed and registered.

143. A rule under section 22, section 34 or section 84, or the cancellation, rescission or variation of a rule under any of those sections or under section 47, sub-section (4), shall not take effect until it has been published in the Gazette of India.

(2) Where any rule made under this Act, or the cancellation, rescission or variation of any such rule, is required by this Act to be published in the Gazette of India, it shall, besides being so published, be further notified to persons affected thereby in such manner as the Governor General in Council, by general or special order, directs.

(3) The Governor General in Council may cancel or vary any rule made by him under this Act.

144. (1) The Governor General in Council may, by notification in the Gazette of India, invest, absolutely or subject to conditions, any Local Government with any of the powers or functions of the Governor General in Council under this Act with respect to any railway, and may, by that or a like notification, declare what Local Government shall, for the purposes of the exercise of powers or functions so conferred, be deemed to be the Local Government in respect of the railway.

(2) The provisions of section 139 with respect to proceedings of the Governor General in Council shall, so far as they can be made applicable, apply to proceedings of a Local Government exercising the powers or discharging the functions of the Governor General in Council in pursuance of a notification under sub-section (1).

145. (1) The Manager of a railway administered by the Government or a Native State, and the Agent in India of a railway administered by a railway company, may, by instrument in writing, authorize any railway servant or other person to act for or represent him in any proceeding before any Civil, Criminal or other Court.

S. 144.—See G. G. 1890, p. 565.

Ss. 144, 145.—For the meaning of the word "railway" see S. 148 (1).

(2) A person authorized by a Manager or Agent to conduct prosecutions on behalf of a railway administration shall, notwithstanding anything in section 495 of the Code of Criminal Procedure, 1882, be entitled to conduct such prosecutions without the permission of the Magistrate. *See para 18*

146. The Governor General in Council may, by notification in the Gazette of India, extend this Act or any portion thereof to any tramway worked by steam or other mechanical power.²
 Power to extend Act to steam-tramways.

2 999 (1890) p. 2

147. The Governor General in Council may, by a like notification, exempt any railway from any of the provisions of this Act.³
 Power to exempt railways from Act.

See 408 & 451

3 999 (1891)

148. (1) For the purposes of section 3, clauses (5), (6) and (7), and sections 4 to 19 (both inclusive), 47 to 52 (both inclusive), 59, 79, 83 to 92 (both inclusive), 96, 97, 98, 100, 101, 103, 104, 107, 111, 122, 124 to 132 (both inclusive), 134 to 138 (both inclusive), 140, 141, 144, 145 and 147, the word "railway", whether it occurs alone or as a prefix to another word, has reference to a railway or portion of a railway under construction and to a railway or portion of a railway not used for the public carriage of passengers, animals or goods as well as to a railway falling within the definition of that word in section 3, clause (4).
 Matters supplemental to the definitions of "railway" and "railway servant".

See 1. p. 303.

(2) For the purposes of sections 5, 21, 83, 100, 101, 103, 104, 121, 122, 125 and 137, sub-sections (1), (2) and (4), and section 138, the expression "railway servant" includes a person employed upon a railway in connection with the service thereof by a person fulfilling a contract with the railway administration.

149. In sections 194 and 195 of the Indian Penal Code, for the words "by this Code or the law of England" the words "by the law of British India or England" shall be substituted.
 Amendment of the Indian Penal Code.

150. For that portion of the preamble to the Sindh-Pishin Railway Act, 1887, which begins with the words "so far as it applies" and ends with the words "in its entirety", the words "should apply in its entirety to that part of the Sindh-Pishin section of the North-Western Railway which lies beyond the Province of Sindh" shall be substituted.
 Amendment of the Sindh-Pishin Railway Act, 1887.

S. 147.—For the meaning of the word "railway" see S. 148 (1).

THE FIRST SCHEDULE.

ENACTMENTS REPEALED.

(See Section 2.)

Number and year.	Extent of repeal.	Number and year.	Extent of repeal.
<i>Acts of the Governor General in Council.</i>			
III. of 1865	Section 7 (so far as it relates to railways) and section 10.	XI. of 1886.....	Section 49.
IV. of 1879	The whole.	XX. of 1886	So much as relates to Acts IV. of 1879 and IV. of 1883.
IV. of 1883	The whole.		

THE SECOND SCHEDULE.

ARTICLES TO BE DECLARED AND INSURED.

(See section 75.)

- (a) gold and silver, coined or uncoined, manufactured or unmanufactured ;
- (b) plated articles ;
- (c) cloths and tissue and lace of which gold or silver forms part, not being the uniform or part of the uniform of an officer, soldier, sailor, police-officer or person enrolled as a volunteer under the Indian Volunteers Act, 1869, or of any public officer, British or foreign, entitled to wear uniform ;
- (d) pearls, precious stones, jewellery and trinkets ;
- (e) watches, clocks and timepieces of any description ;
- (f) Government securities ;
- (g) Government stamps ;
- (h) bills of exchange, hundis, promissory-notes, bank-notes, and orders or other securities for payment of money ;
- (i) maps, writings and title-deeds ;
- (j) paintings, engravings, lithographs, photographs, carvings, sculpture and other works of art ;
- (k) art pottery and all articles made of glass, china or marble ;
- (l) silks in a manufactured or unmanufactured state, and whether wrought up or not wrought up with other materials ;
- (m) shawls ;
- (n) lace and furs ;
- (o) opium ;
- (p) ivory, ebony, coral and sandalwood ;
- (q) musk, sandalwood-oil and other essential oils used in the preparation of *it* or other perfume ;
- (r) musical and scientific instruments ;
- (s) any article of special value which the Governor General in Council may, by notification in the Gazette of India, add to this schedule.

Schedule 1.—The titles of the repealed enactments and a reference to a Bengal Act are omitted.

Act No. X. of 1890.

RECEIVED THE ASSENT OF THE GOVERNOR GENERAL ON THE
21ST MARCH, 1890.

An Act to amend Act XXV. of 1867.

WHEREAS it is expedient to amend Act XXV. of 1867 (*an Act for the regulation of Printing-presses and Newspapers, for the preservation of copies of books printed in British India, and for the registration of such books*); It is hereby enacted as follows:—

Repeal of part of preamble to Act XXV., 1867.

1. In the preamble to the said Act the word "three" is hereby repealed. *27/9, 9.20/8*
541, 90/

2. In section 1 of the said Act, in the definition of the word "Magistrate", the words "and a Justice of the Peace" are hereby repealed. *2 do. 4*

Repeal of part of section 1, Act XXV., 1867.

3. In section 6 of the said Act, for the words "other Court within the local limits of whose ordinary original civil jurisdiction" the words "other principal Civil Court of original jurisdiction for the place where" shall be substituted.

Amendment of section 6, Act XXV., 1867.

Substitution of new Part for Part III, Act XXV., 1867.

4. For Part III (sections 9, 10 and 11) of the said Act the following shall be substituted, namely:— *en, 27/9, 9.20/8*
8. 1. 1. 1
7. 1. 1. 1

"PART III.

"DELIVERY OF BOOKS.

"9. Printed or lithographed copies of the whole of every book which shall be printed or lithographed in British India after this Act shall come into force, together with all maps, prints or other engravings belonging thereto, finished and coloured in the same manner as the best copies of the same, shall, notwithstanding any agreement (if the book be published) between the printer and

Copies of books printed after commencement of Act to be delivered gratis to Government.

publisher thereof, be delivered by the printer at such place and to such officer as the Local Government shall, by notification in the official Gazette, from time to time direct, and free of expense to the Government, as follows, that is to say:—

- (a) in any case, within one calendar month after the day on which any such book shall first be delivered out of the press, one such copy, and,
- (b) if within one calendar year from such day the Local Government shall require the printer to deliver other such copies not exceeding two in number, then within one calendar month after the day on which any such requisition shall be made by the Local Government on the printer, another such copy, or two other such copies, as the Local Government may direct,

the copies so delivered being bound, sewed or stitched together and upon the best paper on which any copies of the book shall be printed or lithographed.

“The publisher or other person employing the printer shall, at a reasonable time before the expiration of the said month, supply him with all maps, prints and engravings finished and coloured as aforesaid, which may be necessary to enable him to comply with the requirements aforesaid.

“Nothing in the former part of this section shall apply to—

- (i) any second or subsequent edition of a book in which edition no additions or alterations either in the letter-press or in the maps, prints or other engravings belonging to the book have been made, and a copy of the first or some preceding edition of which book has been delivered under this Act, or
- (ii) any periodical work published in conformity with the rules laid down in section 5 of this Act.

Receipt for copies delivered under last foregoing section.

“10. The officer to whom a copy of a book is delivered under the last foregoing section shall give to the printer a receipt in writing therefor.

“11. The copy delivered pursuant to clause (a) of the first paragraph of section 9 of this Act shall be disposed of as the Local Government shall from time to time determine.

“Any copy or copies delivered pursuant to clause (b) of the said paragraph shall be transmitted to the British Museum or the Secretary of State for India, or to the British Museum and the said Secretary of State, as the case may be.”

Substitution of new sections for sections 16 and 17, Act XXV., 1867.

5. For sections 16 and 17 of the said Act the following shall be substituted, namely:—

“16. If any printer of any such book as is referred to in section 9 of this Act shall neglect to deliver copies of the same pursuant to that section, he shall for every such default forfeit to the Government such sum not exceeding fifty rupees as a Magistrate having jurisdiction in the place where the book was printed may, on the application of the officer to whom the copies should have been delivered or of any person authorized by that officer in this behalf, determine to be in the circumstances a reasonable penalty for the default, and, in addition to such sum, such further sum as the Magistrate may determine to be the value of the copies which the printer ought to have delivered.

“If any publisher or other person employing any such printer shall neglect to supply him, in the manner prescribed in the second paragraph of section 9 of this Act, with the maps, prints or engravings which may be necessary to enable him to comply with the provisions of that section, such publisher or other person shall for every such default forfeit to the Government such sum not exceeding fifty rupees as such a Magistrate as aforesaid may, on such an application as aforesaid, determine to be in the circumstances a reasonable penalty for the default, and, in addition to such sum, such further sum as the Magistrate may determine to be the value of the maps, prints or engravings which such publisher or other person ought to have supplied.

“17. Any sum forfeited to the Government under the last foregoing section may be recovered, under the warrant of the Magistrate determining the sum, or of his successor in office, in the manner authorized by the Code of Criminal Procedure for the time being in force, and within the period prescribed by the Indian Penal Code, for the levy of a fine.

“All fines or forfeitures under this Part of this Act shall, when recovered, be disposed of as the Local Government shall from time to time direct.”

6. In section 18 of the said Act, there shall be substituted for the words and figure “pursuant to section 9” the words, letter and figure “pursuant to clause (a) of the first paragraph of section 9”, and for the words “copies thereof in manner aforesaid” the words, letter and figure “copy thereof pursuant to clause (a) of the first paragraph of section 9”.

Amendment of section 18, Act XXV., 1867.

7. Section 22 of the said Act is hereby repealed.

Repeal of section 22, Act XXV., 1867.

Act No. XI. of 1890.

RECEIVED THE ASSENT OF THE GOVERNOR GENERAL ON THE
21ST MARCH, 1890.

An Act for the Prevention of Cruelty to Animals.

WHEREAS it is expedient to make further provision for the prevention of cruelty to animals; It is hereby enacted as follows:—

Title, extent and commencement, and supersession of other enactments.

1. (1) This Act may be called the Prevention of Cruelty to Animals Act, 1890.

(2) This section extends to the whole of British India: and the Local Government may, by notification in the official Gazette, extend, on and from a date to be specified in the notification, the whole or any part of the rest of this Act to any such local area as it thinks fit.

(3) When any part of this Act has been extended under sub-section (2) to a local area, the Local Government may, by notification in the official Gazette, direct that the whole or any part of any other enactment in force in the local area (a) for the prevention of cruelty to animals shall, except as regards anything done or any offence committed or any fine or penalty incurred or any proceedings commenced, cease to have effect in the local area, and such whole or part shall cease to have effect accordingly until the Local Government, by a like notification, otherwise directs.

(4) The Local Government may cancel or vary a notification under sub-section (2) or sub-section (3).

Definitions.

2. In this Act, unless there is something repugnant in the subject or context,—

(1) “animal” means any domestic or captured animal: and

(2) “street” includes any way, road, lane, square, court, alley, passage or open space, whether a thoroughfare or not, to which the public have access.

Penalty for cruelty to animals in public places and for sale in such places of animals killed with unnecessary cruelty.

3. If any person in any street or in any other place, whether open or closed, to which the public have access, or within sight of any person in any street or in any such other place,—

¹ Cf Canadian 43 Vic c 38 (a) ^{S. 2} cruelly and unnecessarily beats, overdrives, overloads or otherwise ill-treats any animal, or

² ^{S. 12} ^{42+13 Vic c 92} (b) binds or carries any animal in such a manner or position as to subject the animal to unnecessary pain or suffering, or

S. 1 (3) (a).—Such parts of enactments, for instance, as S. 21 of Act XLVIII. of 1860; S 16 (1) of Bombay Act VIII. of 1867; and S. 62 of Bombay Act IV. of 1890.

(c) offers, exposes, or has in his possession for sale any live animal which is suffering pain by reason of mutilation, starvation or other ill-treatment, or any dead animal which he has reason to believe to have been killed in an unnecessarily cruel manner,

he shall be punished with fine which may extend to one hundred rupees, or with imprisonment for a term which may extend to three months, or with both. C/12+13/14
C 92 a. 18

4. If any person performs upon any cow the operation called phúká, he shall be punished with fine which may extend to one hundred rupees, or with imprisonment which may extend to three months, or with both.
Penalty for practising phúká.

5. If any person kills any animal in an unnecessarily cruel manner, he shall be punished with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to six months, or with both.
Penalty for killing animals with unnecessary cruelty anywhere.

6. (1) If any person employs in any work or labour any animal which by reason of any disease, infirmity, wound, sore or other cause is unfit to be so employed, or permits any such unfit animal in his possession or under his control to be so employed, he shall be punished with fine which may extend to one hundred rupees.
Penalty for employing anywhere animals unfit for labour.

(2) The Local Government may, by general or special order, appoint places to be infirmaries for the treatment and care of animals in respect of which offences against sub-section (1) have been committed.

(3) The Magistrate before whom a prosecution for such an offence has been instituted may direct that the animal in respect of which the offence is alleged or proved to have been committed shall be sent for treatment and care to an infirmary and be there detained until it is in his opinion, or in the opinion of some other Magistrate, again fit for the work or labour on which it has been ordinarily employed.

(4) The cost of the treatment, feeding and watering of the animal in the infirmary shall be payable by the owner of the animal according to such scale of rates as the District Magistrate or, in the case of an infirmary in a Presidency-town, the Commissioner of Police may from time to time prescribe.

(5) If the owner refuses or neglects to pay such cost and to remove the animal within such time as a Magistrate may prescribe, the Magistrate may direct that the animal be sold and that the proceeds of the sale be applied to the payment of such cost.

(6) The surplus, if any, of the proceeds of the sale shall, on application made by the owner within two months after the date of the sale, be paid to him, but the owner shall not be liable to make any payment in excess of the proceeds of the sale.

7. If any person wilfully permits any animal of which he is the owner to go at large in any street while the animal is affected with contagious or infectious disease, or without reasonable excuse permits any diseased or disabled animal of which he is the owner to die in any street, he shall be punished with fine which may extend to one hundred rupees.

Penalty for permitting diseased animals to go at large or to die in public places.

8. (1) If a Magistrate of the first class, Subdivisional Magistrate, Commissioner of Police or District Superintendent of Police, upon information in writing and after such inquiry as he thinks necessary, has reason to believe that an offence against section 4, section 5, or section 6 is being or is about to be or has been committed in any place, he may either himself enter and search or by his warrant authorize any police-officer above the rank of a constable to enter and search the place.

Search-warrants.

(2) The provisions of the Code of Criminal Procedure, 1882, relating to searches under that Code shall, so far as those provisions can be made applicable, apply to a search under sub-section (1).

9. A prosecution for an offence against this Act shall not be instituted after the expiration of three months from the date of the commission of the offence.

Limitation for prosecutions.

10. When any Magistrate, Commissioner of Police or District Superintendent of Police has reason to believe that an offence against this Act has been committed in respect of any animal, he may direct the immediate destruction of the animal if in his opinion its sufferings are such as to render such a direction proper.

Destruction of suffering animals.

11. Nothing in this Act shall render it an offence to kill any animal in a manner required by the religion or religious rites and usages of any race, sect, tribe or class.

Saving with respect to religious rites and usages.

12. Notwithstanding anything in section 1, sections 9, 10 and 11 shall extend to every local area in which any section of this Act constituting an offence is for the time being in force.

Provision supplementary to section 1 with respect to extent of Act.

Act No. XII. of 1890.

R VII/94 2 (1) 2nd.

RECEIVED THE ASSENT OF THE GOVERNOR GENERAL ON THE
21ST MARCH, 1890.

An Act to amend the Indian Tariff Act, 1882.

WHEREAS it is expedient to amend the Indian Tariff Act, 1882; It is hereby enacted as follows:—

1. In No. 2 of the Second Schedule to the Indian Tariff Act, 1882, as amended by Act II. of 1887 (*an Act to amend the Sea Customs Act, 1878, the Excise Act, 1881, and the Indian Tariff Act, 1882*)—

(a) “Rs. 6” shall be substituted for “Rs. 5” in the fifth column as the rate of duty to be levied and collected per Imperial Gallon or six quart bottles of “Liqueurs,” and

(b) for the following, namely:—

No.	Names of Articles.	Per	Tariff Valuation.	Rate of Duty.
*	*	*	*	*
	Spirit when so used in a proportion of twenty per cent. and upwards.	Imperial Gallon or six quart bottles of the strength of London proof.	...	Rs. 5, and the duty to be increased or reduced in proportion as the strength exceeds or is less than London proof.
	Spirit, perfumed, in wood or in bottles.	Imperial Gallon or six quart bottles.	...	Rs. 7-8.
	Spirit, other sorts ...	Imperial Gallon or six quart bottles of the strength of London proof.	...	Rs. 5, and the duty to be increased or reduced in proportion as the strength of the spirit exceeds or is less than London proof.

there shall be substituted the following, namely:—

No.	Names of Articles.	Per	Tariff Valuation.	Rate of Duty.
*	*	*	*	*
	Spirit when so used in a proportion of twenty per cent. and upwards.	Imperial Gallon or six quart bottles of the strength of London proof.	...	Rs. 6, and the duty to be increased or reduced in proportion as the strength of the spirit exceeds or is less than London proof.
	Spirit, perfumed, in wood or in bottles.	Imperial Gallon or six quart bottles.	...	Rs. 8.
	Spirit, other sorts...	Imperial Gallon or six quart bottles of the strength of London proof.	...	Rs. 6, and the duty to be increased or reduced in proportion as the strength of the spirit exceeds or is less than London proof.

Act No. XIII. of 1890.

RECEIVED THE ASSENT OF THE GOVERNOR GENERAL ON THE
28TH MARCH, 1890.

28/3/90
An Act to amend the Excise Act, 1881, and the Bengal Excise Act, 1878, and to apply to Malt Liquor certain provisions of the Sea Customs Act, 1878, respecting Spirit.

WHEREAS it is expedient to amend the Excise Act, 1881, and the Bengal Excise Act, 1878, and to apply to malt liquor certain provisions of the Sea Customs Act, 1878, respecting spirit; It is hereby enacted as follows:—

Title and commencement. 1. (1) This Act may be called the Excise (Malt Liquors) Act, 1890; and

(2) It shall come into force at once.

2—5. (*Relate to Northern India, Burma and Coorg*).

6—8. (*Relate to Bengal*).

Drawback of Excise-duty on Export of Malt Liquor.

9. The provisions of section 150 of the Sea Customs Act, 1878, with respect to the allowance of a drawback of excise-duty paid on spirit manufactured in British India and exported to a foreign port, and with respect to the regulation of the drawback by the quantity of such spirit, shall apply also, so far as they can be made applicable, to fermented liquor made in British India from malt and so exported and to the drawback of the excise-duty paid on such liquor.

Application of provisions of section 150, Act VIII., 1878, to malt liquor.

Act No. XIV. of 1890²

2 viii/99525. 454. n
RECEIVED THE ASSENT OF THE GOVERNOR GENERAL ON THE
31ST JULY, 1890.

An Act to amend the Schedule to the Petroleum Act, 1886.

WHEREAS it is expedient to amend parts of the fourth paragraph (*Application of the test*) of Part III of the Schedule to the Petroleum Act, 1886; It is hereby enacted as follows:—

1. For the third and fourth clauses of the said paragraph commencing respectively with the words "If the flash takes place at any temperature below 77° Fahrenheit" and "No flash which takes place within eight degrees of the temperature at which the testing is commenced," the following shall be substituted, namely:—

Amendment of Schedule to Act XII. of 1886.

"If the flash takes place at any temperature below 77° Fahrenheit, the temperature at which it occurs is to be recorded. Two fresh portions of the sample are then to be successively tested in a similar manner and the results recorded. If no greater difference than 2° Fahrenheit exists between any two of the three recorded results, and if in no instance the flash has taken place within eight degrees of the temperature at which the testing is commenced, each result is to be corrected for atmospheric pressure as hereafter described, and the average of the three corrected results is the flashing point of the sample. In the event of there being a greater difference than 2° Fahrenheit between any two of the results, while in no instance has the flash taken place within eight degrees of the temperature at which the testing was commenced, the series of tests is to be rejected, and a fresh series of three similarly obtained, and so on, until a sufficiently concordant series is furnished, when the results are to be corrected and the average taken in the manner already described.

"If, however, a flash has occurred at or below 64° when the test is applied in the manner above described, the next testing shall be commenced ten degrees lower than the temperature at which the flash had been previously obtained (that is to say, at 54° or thereunder), and this procedure shall be continued until the results of three consecutive tests do not show a greater difference than 2°, and until a flash has not occurred in any of the three tests within eight degrees of the temperature at which the testing is commenced: Provided always that if at the commencement of the series of tests a flash has occurred on the first application of the test-flame at 56°, and if a flash has also occurred on the first application of the flame in each of three successive tests in which, thereupon, the test-flame is first applied at 46° as above directed, the testing officer shall certify that the petroleum has a flashing point below 47° and the sample shall be reported dangerous."

Act No. XV. of 1890.

R. XI/96 S. 1.

RECEIVED THE ASSENT OF THE GOVERNOR GENERAL ON THE
29TH AUGUST, 1890.

An Act to amend the Indian Paper Currency Act, 1882.

WHEREAS it is expedient to authorize an increase of the amount which may be invested in securities of the Government of India out of the coin and bullion received for currency notes under the law relating to the Government paper currency; It is hereby enacted as follows:—

1. Section 19 of the Indian Paper Currency Act, 1882, shall be read
Amendment of section 19, as if for the words "sixty millions" the words
Act XX., 1882. "eighty millions" were substituted.

S. 1.—The amount fixed under S. 19 is 70 millions of rupees. G. G. 1890, p. 1314.

Act No. XVI. of 1890.

RECEIVED THE ASSENT OF THE GOVERNOR GENERAL ON THE
11TH SEPTEMBER, 1890.

An Act to amend the Births, Deaths and Marriages Registration Act, 1886.

WHEREAS it is expedient to amend the Births, Deaths and Marriages Registration Act, 1886; It is hereby enacted as follows:—

1. In section 32 of the said Act, for the words “within one year from the date on which this Act comes into force”, the words “at any time before the first day of April, 1891,” shall be substituted.

Amendment of section 32, Act VI., 1886.

Addition of new section 35A, Act VI., 1886.

2. The following section shall be added to Chapter V. of the said Act, namely:—

“35A. (1) The Governor General in Council, if he thinks fit, may, by notification in the *Gazette of India*, appoint more commissions than one for the purposes of this Chapter, each such commission consisting of so many and such members as he may, by a like notification, nominate thereto by name or by office, and having its functions restricted to the disposal, under this Act and the rules thereunder, of the registers or records sent under section 32 to such Registrar General or Registrars General as the Governor General in Council may, by a like notification, specify in this behalf.

“(2) If more commissions than one are appointed in exercise of the power conferred by sub-section (1), then references in this Act to the Commissioners shall be construed as references to the members constituting a commission so appointed.”

Act No. XVII. of 1890.

R. 1/03 4.40 50.00 P. 11.

RECEIVED THE ASSENT OF THE GOVERNOR GENERAL ON THE
16TH OCTOBER, 1890.

An Act to provide for certain matters in connection with the taking of the Census.

WHEREAS it has been determined to take a census of British India during the year 1891, and it is expedient to provide for certain matters in connection with the taking of such census; It is hereby enacted as follows:—

Title, extent and commencement.

1. (1) This Act may be called the Indian Census Act, 1890.

Act XVI. S. 2.—For the appointment of commissioners, see G. G. 1890, p. 1065. Rules for their guidance are published at G. G. 1890, p. 1049.

Act XVII.—Sections 1 and 12 only of this Act are printed. The operation of the rest of the Act is spent.

(2) It extends to the whole of British India, inclusive of Upper Burma and British Baluchistan; and

(3) It shall come into force at once.

12. Notwithstanding anything to the contrary in the Indian Evidence Act, 1872, no entry in any book, register or record made by a census-officer in the discharge of his duty as such officer, and no entry in a schedule delivered under section 9, shall be admissible as evidence in any civil proceeding or any proceeding under Chapter XII. or Chapter XXXVI. of the Code of Criminal Procedure, 1882.

Records of census not admissible in evidence in certain proceedings.

Act No. XVIII. of 1890.

RECEIVED THE ASSENT OF THE GOVERNOR GENERAL ON THE
16TH OCTOBER, 1890.

An Act to amend the Indian Emigration Act, 1883.

WHEREAS it is expedient to amend the Indian Emigration Act, 1883, in manner hereinafter appearing; It is hereby enacted as follows:—

Correction of section 31, Act XXI., 1883. 1. In section 31 of the said Act, after the word "mistake" the word "and" shall be inserted.

Amendment of, and addition to, section 35, Act XXI., 1883. 2. (1) In section 35, sub-section (1), of the said Act, the words "in duplicate" shall be substituted for the words "in triplicate" in both places where the latter words occur.

(2) To the same section the following sub-section shall be added, namely:—

"(4) Any number of intending emigrants appearing with the same recruiter before the Registering Officer or Protector at the same time, and desiring to emigrate on the same terms to the same country, may, with the permission of the Registering Officer or Protector (as the case may be), execute one instrument of agreement under this section, instead of each of such intending emigrants executing a separate instrument."

Substitution of new section for section 37, Act XXI., 1883. 3. For section 37 of the said Act the following shall be substituted, namely:—

Record of registrations and agreements.

“37. When the agreement has been executed and attested—

- (a) one of the copies thereof shall be delivered to the emigrant, and the other shall be retained by the Protector or sent by the Registering Officer to him, and
- (b) a certified copy of the particulars registered under section 31 concerning the emigrant or emigrants by whom the agreement was executed, and concerning his or their dependents (if any), shall be delivered to the recruiter for transmission to the Emigration Agent.”

4. There shall be substituted in sub-section (1) of section 49 of the said Act, for the word “agreement” the words and figures “particulars registered under section 31,” and in sub-section (2) of the same section for the word “agreement” the words “said copy.”

Amendment of section 49, Act XXI., 1883.

Addition to proviso to section 56 (1), Act XXI., 1883.

5. To sub-section (1) of section 56 of the said Act the following proviso shall be added, namely :—

“Provided that, if the vessel is a steam-ship having a certificate of survey granted by the Board of Trade or any British Colonial Government or under the Indian Steam-ships Act, 1884, and in force and applicable to her intended voyage, the survey under this sub-section with a view to ascertain her seaworthiness shall not extend to her hull or machinery unless the Protector of Emigrants has reason to believe that, since the grant of the certificate, her hull or machinery has sustained injury or damage or has otherwise become inefficient.”

¹ Xū/q, 1.201
sch. I p. 61
Repeal of section 70, Act XXI., 1883.

6. Section 70 of the said Act is hereby repealed.

~~2. 1887~~
Substitution of new section for section 102, Act XXI., 1883.

7. For section 102 of the said Act as amended by Act XXI. of 1884 the following shall be substituted, namely :—

“102. (1) On and from such a date as the Governor General in Council may, by notification in the *Gazette of India*, fix in this behalf with respect to any protected Native State adjoining the Straits Settlements, or with respect to any British colony or possession for labour in which Natives of India are recruited exclusively through the agency of the Government of the Straits Settlements, a Native of India who departs by sea out of British India under an agreement to labour for hire in any such State, colony or possession shall not, so long as the notification continues to apply to the State, colony or possession, be deemed to emigrate within the meaning of this Act.

(2) The Governor General in Council may, by notification in the *Gazette of India*, declare that from a date to be specified a notification under sub-section (1) shall no longer apply to a Native State or British colony or possession therein mentioned."

8. Every notification made under section 102 of the said Act as amended by Act XXI. of 1884 shall be deemed to have been made under sub-section (1) of section 102 of the said Act as amended by the last foregoing section of this Act.

Saving of notifications under section 102, Act XXI., 1883, as amended by Act XXI., 1884.

9. In section 105 of the said Act, for the word and figures "section 102" the words, figures and letter "section 103, clause (a), and section 104" shall be substituted.

Amendment of section 105, Act XXI., 1883.

Act No. XIX. of 1890. (*Punjab.*)

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Bombay Act No. I. of 1890.

PUBLISHED BY THE GOVERNOR OF BOMBAY ON THE 27TH MAY, 1890.

An Act to amend the Prevention of Gambling Act (Bombay IV. of 1887).

WHEREAS it is expedient to amend the Bombay Prevention of Gambling Act, 1887; It is enacted as follows:—

1. In Section 3 of the said Act the following definitions shall be inserted before the definition of "common gaming house":

"Gaming" to include wagering.

"In this Act the word "gaming," whenever it occurs, shall include wagering.

"Instruments of gaming" defined.

"In this Act the expression "instruments of gaming" includes any article used as a subject or means of gaming."

Bombay Act No. II. of 1890.

PUBLISHED BY THE GOVERNOR OF BOMBAY ON THE 9TH JULY, 1890.

THE BOMBAY SALT ACT, 1890.

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An Act to consolidate and amend the law relating to Salt and the Salt-revenue throughout the Presidency of Bombay.

WHEREAS it is expedient to amend the Bombay Salt Act, 1873, and to enact a consolidated salt law for the whole of the Bombay presidency; It is enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title.

1. (1) This Act may be cited as "The Bombay Salt Act, 1890."

Extent.

(2) It extends to the whole of the presidency of Bombay; ~~but it shall not come~~ te as the Governor of Bombay in Council, by notification in the *Bombay Government Gazette*, ~~fixes in this behalf.~~

Commencement in Sind.

XVI/95 1.2 (1) + 0.01 i f. II.

2. (1) The Bombay Salt Act, 1873, and Bombay Act V. of 1882 (*an Act to amend the Bombay Salt Act of 1873*) are repealed:

Repeal of enactments.

(2) Provided that:

(a) all rules and appointments made, licenses and permits granted, notifications published and powers conferred under either of the said enactments and now in force shall, so far as they are consistent with this Act, be deemed to have been respectively made, granted, published and conferred hereunder ;

S 1 (2).—The 2nd October, 1890, is the date so fixed. G. G. 1890, p. 954.

- (b) the said repeal shall not affect any act done, or any offence committed, or any proceedings commenced, or any claim which has arisen, or any penalty which has been incurred, before this Act comes into force.

Definitions. 3. In this Act, unless there is something repugnant in the subject or context:

- “Commissioner;” (a) “Commissioner” means a Commissioner of Salt-revenue;
- (b) “Collector,” “Deputy” and “Assistant Collector” mean, respectively, a Collector or a Deputy or Assistant Collector of Salt-revenue;
- “Collector,” “Deputy” and “Assistant Collector;”
- (c) “salt-revenue officer” means an officer of the Salt Department and includes any other person, whether a Government officer or not, invested under section 10 with any power under this Act;
- “Salt-revenue officer;”
- (d) “natural salt” means salt spontaneously produced, natural saline deposits and efflorescence;
- “natural salt;”
- “salt;” (e) “salt” includes natural salt;
- (f) “salt-earth” means earth naturally impregnated with salt, or with which salt is mixed;
- “salt-earth;”
- (g) “manufacture” includes every process by which salt is separated from brine or earth or any other liquid or substance, and also every process for the purification or refinement of salt;
- “manufacture;”
- (h) “salt-work” includes:
- “salt-work;”
- (i) a place used or intended to be used for the manufacture of salt and all embankments, reservoirs, condensing and evaporating pans, buildings and waste places situated within the limits of the same;
- (ii) all drying grounds and storage platforms and store-houses appertaining to any such place; and
- (iii) land on which salt is spontaneously produced;
- (k) a “private salt-work” is one not solely owned or not solely worked by Government;
- “private salt-work;”

8. 3 (g).—Where a person bought some dirty salt in the bazaar, dissolved it in water, removed the dirt therefrom and obtained clean dry salt by evaporating off the water, the Bombay High Court held that he had manufactured salt within this definition. Cr. Rg. 27th November, 1890.

(l) "licensee of a salt-work" means ^A a person licensed to manufacture, excavate or collect salt at, or to remove salt from, a "licensee of a salt-work;"

1890/10/1
(m) "contraband salt" means salt or salt-earth ^{removed from a salt-work or from a Govt. house or other} manufactured, excavated, collected, packed, stored, landed, transported ~~or removed from a salt-work or from a Government warehouse or store,~~ or had in possession, in contravention:

- (i) of this Act, or of any other enactment relating to the salt-revenue at the time being in force; or
- (ii) of any rule or order made under this Act or under any other such enactment as aforesaid; or
- (iii) of any license or permit issued under this Act, or under any other such enactment as aforesaid;

28

"maund;"

(n) "maund" means an Indian maund of 82½ pounds avoirdupois weight;

(o) "possession" or "removal" of salt or salt-earth by a servant or agent of any person, on that "possession"; "removal." person's account, shall be deemed to be possession or removal thereof by such person.

CHAPTER II.

ESTABLISHMENT AND CONTROL.

4. (1) Subject to the general control of the Governor General in Council, the Governor in Council may, from time to time, appoint, either by name or by virtue of their office, so many persons as he thinks fit to be officers of the Salt Department.

Power for Governor in Council to appoint superior officers of the Salt Department.

- (2) The said officers shall be appointed under the designations of—
- (a) Commissioner of Salt-revenue;
 - (b) Collector of Salt-revenue;
 - (c) Deputy Collector of Salt-revenue;
 - (d) Assistant Collector of Salt-revenue;

and such other designations, if any, as the Governor in Council thinks fit.

(3) Each such officer shall be appointed for such local area as the Governor in Council from time to time defines in this behalf.

(4) The Governor in Council may suspend, remove, dismiss, or accept the resignation of, any person appointed under this section.

(5) The Governor in Council may at any time withdraw from any officer any of the powers or duties which are or which may be conferred or imposed by or under this Act.

5. (1) Subject to the control and direction of the Commissioners to whom they are respectively subordinate and to the orders of Government, the Collectors are charged with the collection of salt-revenue and with the carrying out of the provisions of this Act within the local areas for which they are respectively appointed :

(2) Provided that it shall be competent to the Governor in Council, by an order published in the *Bombay Government Gazette* whenever and for so long as he shall deem fit, to keep the office of Commissioner of Salt-revenue in any part of the presidency in abeyance and to empower the Collectors in such part, during the time that the said office is so held in abeyance, to exercise the powers and perform the duties of Commissioner within the local areas for which they are respectively appointed and their proceedings and orders shall, in that case, be subject to the immediate control of Government.

6. Subject to such orders as may from time to time be passed by Government in this behalf, the Commissioners may :

(a) appoint such subordinate officers of the Salt Department, to appoint subordinate officers of the Salt Department, and with such designations as they deem fit ;

(b) at any time, after inquiry recorded in writing, fine, dismiss, to punish them for misconduct. suspend or reduce any officer so appointed, for any breach of departmental rules or discipline, or for carelessness, unfitness, neglect of duty or other misconduct.

7. The powers conferred on Commissioners by the last preceding section may be delegated by any Commissioner, in whole or in part, to any Collector or Deputy or Assistant Collector, and any such delegation may be at any time cancelled by the Commissioner.

8. All officers of the Salt Department shall be deemed to be Revenue officers within the meaning and for the purposes of Chapter III. of the Bombay Land Revenue Code, 1879, and all the provisions of the said Chapter relating to Revenue officers and their sureties shall be applicable respectively to officers of the Salt Department and their sureties. Provided that, all the powers conferred and duties imposed by the said Chapter on the Collector or the Superintendent of Survey, shall, in respect of officers of the Salt Department and their sureties, be exercised and performed by the Collectors of Salt Revenue only.

S. 6.—The powers of the Local Government are delegated to the Commissioner in Sind. G. G. 1890, p. 954.

9. Until appointments are made in Sind under sections 4 and 6, the officers who, on the day previous to the date on which this Act comes into force in that province, hold any office in virtue of which they exercise powers or perform duties in connection with the collection or protection of the salt-revenue in that province, shall be deemed to have been appointed and shall continue to hold the same offices, respectively, under this Act.

Continuance of existing officers in Sind.

10. (1) The Governor in Council may, from time to time, by notification in the *Bombay Government Gazette*, invest:

- (a) any officer of the Salt Department, either personally or in virtue of his office; or
- (b) any Government officer of any other department, either personally or in virtue of his office; or
- (c) any other person;

with all or any of the powers described or contemplated in sections 28, 38, 39, 42 and 44.

(2) The Governor in Council may delegate the power vested in him by this section, either wholly or partly, to a Commissioner, subject to such limitations or conditions as Government may by any order prescribe.

CHAPTER III.

MANUFACTURE, EXCAVATION AND COLLECTION OF SALT AND SALT-EARTH.

11. No salt shall be manufactured and no natural salt and, except under the provisions of section 14, no salt-earth shall be excavated or collected or removed, otherwise than by the authority and subject to the terms and conditions of a license to be granted by the Collector in this behalf. *Remember that no such license shall be necessary for any person if he has paid salt. only has been paid.*

12. The Collector shall, on application, grant a license for the manufacture, excavation, collection or removal of salt, to any person entitled to the same under section 16 or section 17, and may, in his discretion, grant licenses for any of the said purposes or for the excavation, collection or removal of salt-earth to any other persons.

Licenses to be granted by the Collector.

Licenses what to contain.

13. (1) Each such license shall specify:

- (a) the name of the person to whom it is granted;
- (b) the limits within which the manufacture, excavation or collection under it is to be carried on; and
- (c) the place where the salt or salt-earth so manufactured, excavated, collected or removed is to be stored;

S. 10, (1).—The powers of the Local Government are delegated to the Commissioner in Sind. G. G. 1890, p. 954.

and shall be in such form and contain such conditions as the Commissioner, subject to the directions of Government, from time to time prescribes.

(2) The Collector may, at any time, call for any such license and alter or amend it in accordance with the conditions so prescribed.

(3) A register of licenses granted under this section shall be kept in the office of the Collector.

14. The Governor in Council may, from time to time, make rules for permitting the excavation, collection or removal, by any person or class of persons, in any local area or place defined in such notification, of salt-earth, without a license from the Collector, and may in such rules frame such provisions as he shall deem fit for limiting and regulating such excavation, collection or removal and prescribe the uses to which salt-earth so obtained may be put.

Power for Government to make rules for permitting excavation, collection or removal of salt-earth without a license.

15. Every village officer shall communicate to a salt-revenue officer or to a Magistrate, or to an officer in charge of a police-station, within three days after the same shall come to his knowledge, any information which he may obtain of the manufacture, excavation, collection or removal of salt or salt-earth without a license or of any new formation of natural salt in or near his village.

Village officers bound to report illicit manufacture of salt, &c.

CHAPTER IV.

PRIVATE SALT-WORKS.

Proprietors entitled to manufacturing licenses.

16. The proprietor of a private salt work who has by virtue of a sanad granted by the British or any former Government, a special and permanent right to manufacture salt, or to excavate or collect natural salt, shall, unless his salt-work is suppressed under section 24 of this Act or has been suppressed under section 33 of the Bombay Salt Act, 1873, be entitled, on application, to a license for such purpose.

Special and permanent rights of manufacturing salt to be recognized.

17. (1) Except as is hereinafter otherwise provided, every proprietor of a private salt-work, to which section 16 does not apply and which is being lawfully worked at the time when this Act comes into force, or which was lawfully worked at any time within three years next before the date on which this Act comes into force, shall, unless his salt-work is suppressed under section 24 of this Act or has been suppressed under section 33 of the Bombay Salt Act, 1873, be entitled, on application, to a license to manufacture salt or to excavate or collect natural salt at such work:

Rights of ordinary proprietors of existing salt-works.

(2) Provided that the Collector may, at any time, withdraw or withhold a license from the proprietor of any salt-work to which section 16 does not apply, if no salt shall have been manufactured, excavated or collected in such salt-work for the three years ending on the thirtieth day of June last preceding the date of his order or, with the previous sanction of the Governor in Council, if such salt-work shall not have produced, on an average, during the said three years, at least five thousand maunds of salt per annum.

Control of Works.

18. (1) The Collector may, for the purposes of this Act, cause chaukis to be erected in such places as he thinks fit within a private salt-work, and the proprietor or licensee of the salt-work shall have no claim for compensation for the ground occupied by such chaukis.

(2) The Collector may also, for the purposes of this Act, station such salt-revenue officers and other persons as he deems fit within the limits of a private salt-work, and establish preventive stations wherever he thinks fit in the neighbourhood of any such salt-work.

19. (1) The Collector may, at any time, by written notice, require the licensee of a private salt-work to store in heaps any sifted or refuse salt which may be lying on such work, or, at such licensee's option, to destroy the same.

(2) If the licensee shall fail, within ten days from the date of service of any such notice, either to store in heaps or effectually to destroy the same, the Collector may cause the salt to be effectually destroyed and the cost of so doing shall be recoverable by him from the licensee of the salt-work.

(3) The decision of the Collector as to whether any salt is sifted or refuse salt shall, for the purposes of this section, be conclusive.

20. (1) When any heap of salt in a private salt-work has been opened and a portion of it removed, the salt-revenue officer in charge of the salt-work may, by written notice, require the licensee of the salt-work either to remove the remaining portion of the salt in such heap or to re-heap and secure the same in such manner as the said officer shall deem sufficient.

(2) If the licensee shall fail to comply with such notice within three days from the date of service thereof, the officer aforesaid may offer the salt remaining from the heap for sale, and, if the price offered be not less than the duty leviable thereon, may sell it. If the price offered be less than the amount of the duty, he may cause the salt to be destroyed, and the cost of so doing shall be recoverable by him from the licensee of the salt-work.

S. 17 (3).—The powers of the Local Government are delegated to the Commissioner in Sind. G. G. 1890, p. 964.

Power for certain salt-revenue officers to require licensees of private salt-works to repair or reconstruct places for storage of salt or to provide for protection of salt or to repair store-houses.

21. (1) Any salt-revenue officer not lower in rank than a *sarkárkún* may, by written notice, require the licensee of a private salt-work:

- (a) to repair or reconstruct any embankment, platform or place for the storage of salt within such salt-work;
- (b) to protect, in any manner which shall appear to such officer sufficient, by thatch or in any other mode customary in the locality, any salt stored upon any such embankment, platform or place;
- (c) to repair, to such officer's satisfaction, any store-house, building or premises used for the storage of salt manufactured, excavated or collected at such salt-work on which duty has not been paid.

(2) If the licensee shall fail to comply with such notice within twenty days from the date of service thereof, the officer aforesaid may cause the necessary work to be executed; and the cost of so doing shall be recoverable by him from the licensee of the salt-work.

22. If the salt-revenue officer aforesaid shall be of opinion that, unless any such work as is mentioned in the last preceding section is executed without delay, the salt-revenue will be endangered, he may, by written notice, and after recording his reasons for so doing in writing, require the licensee of the salt-work to execute the said work within such period as may be reasonably sufficient for the execution thereof, and, if the licensee fails to comply with the notice within such period, may cause the work to be executed; and the cost of so doing shall be recoverable by him as aforesaid.

Power of Collector to require licensees of private salt-works to construct, reconstruct, alter or extend store-houses or to construct places for the storage of salt.

23. (1) The Collector may, by written notice, require the licensee of a private salt-work, within a reasonable period to be prescribed in such notice, to his satisfaction:

- (a) to construct within or adjacent to such salt-work a store-house or other building or premises for the storage of salt manufactured, excavated or collected at such salt-work, on which duty has not been paid; or
- (b) to reconstruct, alter or extend any existing store-house or other building or premises used for the storage of such salt as aforesaid;
- (c) to construct within such salt-work any embankment, platform or place for the storage of salt.

(2) If the licensee shall fail within the prescribed period to comply with such notice, the Collector may cause the necessary work to be executed; and

the cost of so doing shall be recoverable by him from the licensee of the salt-work.

Suppression of private Salt-works and determination of licenses.

24. (1) If the licensee of any private salt-work, or his agent has been found by an authority competent in this respect to have committed any offence punishable under this Act, the Governor in Council may suppress such salt-work, or suspend or withdraw the license to manufacture, excavate or collect salt thereat or to remove salt therefrom.

Power for Governor in Council to suppress a private salt-work or to suspend or withdraw license, if the licensee offends against this Act; or to fine the licensee if an offence is committed by any person employed at a private salt-work.

(2) If any such offence is committed by any person employed at a private salt-work, the Governor in Council may impose a fine not exceeding one thousand rupees on the licensee of such work, unless the said licensee establishes, to the satisfaction of the Governor in Council, that all due and reasonable precautions were exercised by him to prevent the commission of such offence.

(3) For the purposes of this section the decision of the Governor in Council as to whether any such offence as aforesaid has been committed shall be conclusive.

(4) If any fine imposed under this section is not paid forthwith, the amount thereof may be recovered, upon application by the Collector, by any Magistrate, as if the same were a fine inflicted by such Magistrate.

25. Whenever it shall appear necessary to the Governor in Council to obtain the ownership of any private salt-work with a view to suppressing it, he may proceed to acquire such salt-work under the provisions of the Land Acquisition Act, 1870.

Acquisition of private salt-works under Act X. of 1870.

26. Whenever, under any of the provisions of this Act, a private salt-work is suppressed, or a license to manufacture, excavate or collect salt at or to remove salt from any salt-work is withheld, suspended or withdrawn, the Collector may flood the said work with water or take such other measures as he may deem fit for preventing the manufacture or the spontaneous production of salt therein.

Power to destroy suppressed and unlicensed salt-works.

27. (1) Salt in store at any private salt-work on the date when it is suppressed or when a license for the manufacture, excavation or collection of salt thereat or the removal of salt therefrom is withheld, suspended or withdrawn, may be removed by the licensee of the salt-work within the period of six months from the said

Removal of salt from suppressed and unlicensed private salt-works.

S. 24, clauses 1 and 2, and S. 25.—The powers of the Local Government (except the power to suppress a salt-work) are delegated to the Commissioner in Sind. G. G. 1890, p. 954.

date and for the purpose of such removal the license shall for the said period be deemed to continue in force.

(2) The Collector may cause any salt which remains at any such salt-work after the expiry of the said period of six months to be put up for sale, and, if the price offered be not less than the duty leviable thereon, may sell it. If the price offered be less than the amount of the duty, he may cause the salt to be destroyed.

CHAPTER V.

REMOVAL OF SALT FROM SALT-WORKS OR GOVERNMENT WAREHOUSES.

28. No salt shall be removed from any salt-work or from any Government warehouse or store, otherwise than on account of Government, except under the authority and subject to the terms and conditions of a permit to be granted by a salt-revenue officer empowered in this behalf.

Removal of salt from a salt-work or Government warehouse without a permit prohibited.

29. No such permit shall be granted until after payment of the duty and other charges, if any, payable to Government in respect of the salt intended to be removed, nor except upon a written application for the same.

Permit to be granted only after payment of duty and charges and on a written application.

30. (1) The duty and other charges, if any, payable to Government shall be paid to such officer as the Commissioner, from time to time, directs; and he shall give a receipt for the payment in such form as the Commissioner may prescribe.

Payment of duty and charges.

(2) If the officer authorized to receive the said payment is the same salt-revenue officer who is empowered to grant the permit, the amount of the duty and other charges, if any, payable to Government in respect of the salt intended to be removed shall be presented to the said officer, along with the written application for a permit, and the said officer's receipt therefor may be attached to the permit. Otherwise the receipt of the officer authorized to receive payment of the duty and other charges, if any, shall accompany the written application for a permit.

31. (1) The receipt and written application shall, respectively, be in such form and be signed by such persons and contain such particulars as the Commissioner, from time to time, directs.

Form and contents of receipt, written application and permit.

(2) The permit shall specify:

- (a) the amount of duty and other charges, if any, paid;
- (b) the quantity of salt to be removed;

- (c) the salt-work, or Government warehouse or store from which and the person by whom the salt is to be removed;
- (d) in the case of salt removed from a salt-work, the preventive station at which the salt is to be examined;
- (e) the place to which and the route by which the salt is to be taken;
- (f) the period for which the permit shall be in force;

and shall be in such form and contain such other particulars, if any, as the Commissioner, from time to time, directs.

32. (1) If the Commissioner so directs, there shall be attached to the permit an order to the salt-revenue officer in subordinate charge of the salt-work or Government warehouse or store from which salt is to be removed, requiring him to allow the quantity of salt mentioned in the permit to be removed, and to endorse upon the order a certificate signed by himself and by the person who removes the salt and, if it is removed from a private salt-work, by the licensee of the salt-work, as to the correctness of the weightment and of the scales and weights used in weighing the salt.

(2) The said order and certificate shall be in such form and contain such particulars as the Commissioner, from time to time, prescribes.

Course to be followed by salt-revenue officer in subordinate charge of salt-work, &c., when permit is presented to him.

33. When a permit is presented to the salt-revenue officer in subordinate charge of a salt-work, or of a Government warehouse or store, he shall:

- (a) fill up the blanks therein, if any, intended to be filled up by him;
- (b) permit the authorized amount of salt to be weighed out for removal;
- (c) tear off and retain the order, if any, attached to the permit;
- (d) fill in and take the signatures of the proper persons beneath, and himself attest the certificate to be endorsed on the said order, if any;
- (e) return the permit to the person entitled to remove the salt and permit the salt to be removed.

34. (1) Salt removed from a salt-work under a permit as aforesaid shall be taken, together with the permit covering it, direct to the preventive station named in the permit, within the period prescribed in such permit.

Salt how to be dealt with after leaving a salt-work.

(2) Subject to such orders as the Collector, from time to time, issues in this behalf, the salt-revenue officer in charge of the preventive station may examine and re-weigh the salt under removal.

(3) If the said officer shall be satisfied that the quantity of salt under removal is not in excess of the quantity specified in the permit he shall allow it to pass and, after endorsing the permit to the effect that he has passed the same, shall return it to the person removing the salt.

(4) Thereafter the salt shall be conveyed to the place named in the permit within the period prescribed therein.

35. It shall be incumbent on every person who has obtained a permit for the removal of salt, either personally or through an agent lawfully appointed for this purpose :

- (a) to test the scales and weights used in weighing out such salt;
- (b) to prevent the removal of salt in excess of the quantity named in the permit;
- (c) if so required by the salt-revenue officer in subordinate charge of the salt-work, or Government warehouse, or store, from which the salt is removed, to sign a certificate as to the correctness of the weighment and of the scales and weights used in weighing out the salt;
- (d) to superintend the removal of the salt.

CHAPTER VI.

WAREHOUSING OF SALT FOR SALE.

Salt not to be stored for the purpose of sale within certain limits without a license.

36. No salt shall be stored or had in possession for the purpose of sale :

- (a) in Sind; or
- (b) within one mile from the Mátunga salt-work in the island of Bombay; or
- (c) within ten miles from any salt-work, or from any customs-station established under section 4 of Act No. XXIX. of 1857 (*an Act to make better provision for the collection of land customs on certain foreign frontiers of the presidency of Bombay*); or from any port or place at which at the time being it is lawful to import salt by sea or to land the same; or
- (d) within any other limits which shall, from time to time, be defined for this purpose by the Governor in Council by notification in the *Bombay Government Gazette*;

except under the authority and subject to the terms and conditions of a license to be granted by the Collector in this behalf.

The Governor in Council may make rules to regulate the storage, &c., of salt for purpose of sale in the said limits.

37. (1) The Governor in Council may, from time to time, make rules for regulating and licensing the storage or possession of salt for the purpose of sale within any of the limits aforesaid.

(2) Subject to the provisions of any rules so made, the Collector may, from time to time, grant licenses to such persons as he deems fit, authorizing them to store or possess salt within any of the said limits for the purpose of sale.

Licenses to store, &c., and sell salt may be issued by the Collector.

Possession of salt exceeding one maund in weight prohibited within the said limits except under a permit, &c.

38. (1) No person shall, within any of the limits described in section 36, transport or possess salt exceeding one maund in weight, unless the same :

- (a) is being removed under a permit obtained under section 28 ; or
- (b) is stored or possessed for the purpose of sale under a license granted under the last preceding section ; or
- (c) has been legally imported, from a foreign port or place, at some port or place within the said limits and is covered by a certificate signed by a customs-officer of the payment of the import-duty leviable thereon ; or
- (d) is covered by a special permit granted under the power next hereinafter conferred.

(2) The Collector or Deputy or Assistant Collector or any salt-revenue officer empowered in this behalf may grant to such persons, as they shall think fit, special permits authorizing them to be possessed of salt exceeding one maund in weight for their private consumption within or for conveyance out of any of the said limits.

CHAPTER VII.

POWERS OF SALT-REVENUE OFFICERS.

Power of salt-revenue officers : 39. Any salt-revenue officer empowered in this behalf, may :

- (a) enter, at any time by day or by night, any land, building, enclosed place or premises to enter any place where illicit manufacture of salt is suspected upon or in or from which he to be going on ; and has reason to believe that :
- (i) salt is being manufactured, excavated, collected or removed without a license granted under this Act ; or
- (ii) there is a natural formation of salt ; or
- (iii) contraband salt is stored or concealed ;

- (b) in case of resistance, break open any door and remove any other obstacle to his entry upon or to overcome resistance; and into such land, building, enclosed place or premises;
- (c) take possession of, or destroy any salt so manufactured, excavated, collected or formed and any work, apparatus, implement, utensil, or material constructed or employed for the purpose of such manufacture, excavation, collection or removal, or of utilizing the salt so formed contrary to any of the provisions of this Act or of any rule made hereunder;
- (d) enter and inspect, at any time by day or night, any salt-work or any building, enclosed place, and stores or vessels laden with salt; and or premises used for storing salt, or any vessel laden with, or which is being laden with, or which it is intended to load with salt;
- (e) detain and search any person, animal, vessel, conveyance, goods or package upon or in whom or which he shall have reason to believe that there is contraband salt;
- (f) seize in any open place, or in transit, any article which he has reason to believe to be contraband salt and any package or covering in which such article is found and the other contents, if any, of such package or covering in which the same is found, and any animal, vessel or conveyance used or intended to be used in carrying the same;
- (g) detain and search and, if he think proper, arrest any person whom he has reason to believe to be guilty of any offence punishable under this or any other law for the time being in force relating to salt-revenue, or in whose possession contraband salt is found.

40. All searches and arrests under the last preceding section shall be carried out in accordance with the provisions of the Code of Criminal Procedure, 1882, relating, respectively, to searches and arrests made under that Code.

Searches and arrests how to be made.

41. It shall be incumbent on every village officer and on every officer of the departments of Police, Customs, Opium, Abkari, Forests and Revenue:

Officers of certain departments bound—

- (a) to communicate to some salt-revenue officer, not lower in rank than a sarkarkún or a daroga, to give information concerning offences punishable under this Act; and any information which he receives of a design to commit or of the commission of any offence punishable under this Act;
- (b) to interpose for the purpose of preventing and to prevent, by the use of all reasonable means within his power, the commission of any such offence;
- (c) on receipt of notice or of a request from any salt-revenue officer, to assist such officer in carrying out any of the provisions of this Act.

42. (1) Any Commissioner, or Collector, or other salt-revenue officer empowered in this behalf, and any Magistrate, may issue a warrant for the search, whether by day or by night, of any building, vessel or place in which he has reason to believe that contraband salt is kept or concealed.

(2) Every warrant issued under this section shall be executed in accordance with the provisions of the Code of Criminal Procedure, 1882, relating to search-warrants, by a Police officer or by a salt-revenue officer empowered in this behalf, or, if the officer issuing the warrant deems fit, by any other person.

43. (1) Any officer who makes a search under this Act, or who examines any salt or salt-earth for any of the purposes of this Act, or of any rule made under this Act, may require the person who has the immediate possession or control of any animal, vessel, conveyance, goods, or package which he desires to search, or of any salt or salt-earth which he desires to examine, without delay and in such manner as he thinks fit to direct:

- (a) to unload, unpack or open, any such animal, vessel, conveyance, goods or package; and
- (b) to weigh any such salt or salt-earth; or
- (c) before or after such search, examination or weighing is completed, to remove any such animal, conveyance, goods or package beyond the limits of any wharf, landing-place, or preventive station, or to deposit any such goods or package until further orders at any spot indicated by such officer within such limits.

(2) If the said person shall fail to comply with any such requirement, the officer aforesaid may cause the animal, vessel, conveyance, goods, or

package to be unloaded, unpacked, opened, removed or deposited or the salt or salt-earth to be weighed in the manner which he requires, and the cost of so doing shall be recoverable by the said officer from the said person.

44. Every person arrested under section 39 shall be forwarded without delay to the nearest salt-revenue officer empowered to send persons so arrested to a Magistrate, or, if there be no such salt-revenue officer within a reasonable distance, to the officer in charge of the nearest police-station.

45. The officer in charge of a police-station to whom any person is forwarded under the last preceding section, or who receives, direct, any complaint or information of the commission of an offence punishable under this Act, shall inquire into and deal with the case under the provisions of the Code of Criminal Procedure, 1882, relating to cognizable cases.

46. (1) When any person is forwarded under section 44 to a salt-revenue officer empowered to send persons so arrested to a Magistrate, the said salt-revenue officer may detain such person and shall proceed to inquire into the charge against him.

(2) For this purpose the said salt-revenue officer may exercise the like powers and shall be subject to the same provisions as the officer in charge of a police-station may exercise and is subject to, under the Code of Criminal Procedure, 1882, when investigating a cognizable case :

(3) Provided that :

(a) if the said salt-revenue officer shall be of opinion that there is sufficient evidence or reasonable ground of suspicion against the accused person, he shall forward him to a Magistrate having power to take cognizance of the offence ;

(b) if it appears to the said salt-revenue officer that there is not sufficient evidence or reasonable ground as aforesaid, he shall release the accused on his executing a bond, with or without sureties, as such salt-revenue officer may direct, to appear, if and when so required, before a Magistrate having power as aforesaid, and make a full report of all the particulars of the case to his official superior and be guided by the order which he shall receive upon such report.

CHAPTER VIII.

PENALTIES.

47. Whoever, in contravention of this Act, or of any rule or order made under this Act, or of any license or permit obtained under this Act—
For illicit manufacture of salt,
&c.

- (a) manufactures, removes or transports salt ; or
 - (b) excavates, collects or removes natural salt, or salt-earth ;
- and whoever :

(c) except in the exercise of some power or the discharge of some duty conferred or imposed upon him under this Act or any other enactment at the time in force, receives ^{or is possessed of} or, without lawful excuse, retains contraband salt knowing or having reason to believe the same to be contraband salt ;

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shall, for every such offence, be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to six months, or with both.

48. Whoever, being a salt-revenue officer or a village officer or an officer of any of the departments of Police, Customs, Opium, Ábkári, Forests or Revenue:

For offences against this Act committed by public servants.

- (a) does any act, or is guilty of any omission, in contravention of this Act, or of any rule or order made under this Act ; or
- (b) with intent to cause injury or annoyance to any person, vexatiously and unnecessarily makes use of any power conferred upon him under this Act ;

shall, for every such offence, be punished with fine which may extend to five hundred rupees.

49. Whoever prepares, or signs, or uses, or attempts to use an incorrect application for a permit to remove salt, or an incorrect certificate purporting to be such as is required by section 32, knowing or having reason to believe such application or certificate to be incorrect, shall, for every such offence, be punished with fine which may extend to two hundred rupees, and, in default of payment of the fine, with simple imprisonment for a term which may extend to one month.

What things are liable to confiscation.

50. All contraband salt, and every vessel, animal or conveyance used, or intended to be used, in carrying contraband salt, and

all goods, packages and coverings in or among which contraband salt is found, and

every apparatus, implement, utensil or material employed, or intended to be employed, for the manufacture, excavation, collection or removal of salt without a license or for the purpose of utilizing natural salt or salt-earth contrary to any of the provisions of this Act or of any rule made hereunder, shall be liable to confiscation.

CHAPTER IX.

PROCEDURE.

Cognizance of offences. 51. All offences punishable under this Act, shall be cognizable by any Magistrate.

Order of confiscation by whom to be made. 52. (1) All confiscations under this Act shall be adjudged by the Collector or by any officer empowered by the Governor in Council in this behalf:

(2) Provided that no order of confiscation shall be made without hearing any person who within one month from the date of its seizure claims a right to any thing intended to be confiscated and the evidence, if any, which he produces in support of his claim.

Power to regulate disposal of things seized. (3) Provided also that it shall be lawful for the Governor in Council to make, from time to time, rules consistent with this Act to regulate the disposal and destruction of things seized under this Act.

Such rules may, among other matters, provide:

(a) that any officer of a class which shall be designated in such rules may, at any time after a seizure under this Act has been made of any goods which appear to him to be subject to speedy and natural decay, direct such goods to be sold by public auction, destroyed or otherwise disposed of;

(b) that the owner or person in charge of any animal seized under this Act shall provide, from day to day, for its keep, while detained, and that if he omits to do so, such animal may, if any officer such as is referred to in clause (a) so direct, be sold by public auction and the expenses, if any, incurred on account of it defrayed from the proceeds of such sale;

(c) that the surplus proceeds of a sale under clause (a) or clause (b) of this section shall, unless the owner of the thing seized establishes his claim to such proceeds within a period, not less than three months, to be fixed by such rules, be forfeited to Her Majesty.

Redemption of thing confiscated to be permitted on payment of fine. (4) Whenever confiscation is ordered under this Act, the owner of the thing confiscated shall be given an option of redeeming it, on payment of such fine as the Collector or other officer aforesaid thinks fit.

53. (1) Any salt-revenue officer not lower in rank than a sarkárkún or a daroga shall have power to summon any person whose attendance he considers necessary either to give evidence or to produce a document or any other thing in any inquiry which such officer is making for any of the purposes of this Act. A summons to produce documents or other things may be for the production of certain specified documents or things or for the production of all documents or things of a certain description in the possession or under the control of the person summoned.

(2) All persons so summoned shall be bound to attend, either in person or by an authorized agent, as such officer may direct: provided that exemptions under sections 640 and 641 of the Code of Civil Procedure shall be applicable to requisitions for attendance under this section;

and all persons so summoned shall be bound to state the truth upon any subject respecting which they are examined or make statements;

and to produce such documents and other things as may be required.

(3) Every such inquiry as aforesaid shall be deemed to be a "judicial proceeding" within the meaning of section 193 and section 228 of the Indian Penal Code.

54. Every summons shall be in writing, in duplicate, and shall state the purpose for which it is issued, and shall be signed by the officer issuing it, and shall also bear his official seal, if he have any; and shall be served by tendering a copy of it to the person summoned, or, if he cannot be found, by affixing a copy of it to some conspicuous part of his usual residence.

Summons to be in writing, signed and sealed.

How to be served.

55. (1) Every notice under this Act shall be deemed to be served on the date on which a copy thereof is tendered or delivered to the person on whom it is to be served, or to his agent, if he have any;

or, when the notice has not been so served, the date which shall appear to the officer holding the enquiry to be the date on which the person on whom the same is to be served has become aware of the issue and purport thereof.

(2) No such notice shall be deemed void on account of any error in the name or designation of any person referred to therein, unless when such error has produced a material misconception of the intended intimation.

Notice not void for error.

56. Whenever it is provided in this Act that the costs of doing anything shall be recoverable from any person by a salt-revenue officer, the said officer may recover the same by detention of any property of the person liable therefor

Recovery of costs.

and by sale of such property; and the said costs shall also be recoverable, if necessary, by a revenue officer in any manner in which, under the law at the time in force, an arrear of land-revenue may be recovered.

57. (1) Every order passed by any salt-revenue officer other than a Commissioner or a Collector, shall be appealable to such officer's immediate superior at any time within sixty days from the date of such order.

(2) Every order passed by a Collector shall be appealable within ninety days from the date of such order to the Commissioner, if any, to whom the Collector is subordinate and, if there be no such Commissioner, to Government.

(3) Every order passed by a Commissioner shall be appealable within ninety days from the date of such order to Government: Provided that no such appeal shall lie from any order passed by a Commissioner on appeal.

(4) Subject to the foregoing provisions, the rules for the time being in force relating to appeals in the Revenue department shall apply to appeals under this Act.

CHAPTER X.

MISCELLANEOUS.

Further matters for which the Governor in Council may make rules.

58. (1) In addition to the rules which the Governor in Council is hereinbefore empowered to make, he may, from time to time, make rules, consistent with this Act, to regulate the following matters, namely:

- (a) the manufacture, deposit and storage of salt at any salt-work;
- (b) the deposit and storage of salt in any building, enclosed place or premises used for the deposit or storage of salt on which duty has not been paid;
- (c) the removal of salt from any such building, enclosed place or premises as last aforesaid or from any salt-work;
- (d) the routes by which salt shall be taken from any such building, enclosed place or premises as aforesaid or from any salt-work to any preventive station;
- (e) the routes by which manufacturers of salt and other persons shall approach, enter or leave any salt-work and the hours during which any person may remain within the limits of any salt-work or in any such building, enclosed place or premises as aforesaid;

- (f) the conservancy of any salt-work and of any such building, enclosed place or premises as aforesaid;
- (g) the granting and the refusal of permission to construct within a salt-work or in the immediate vicinity thereof places of residence for manufacturers of salt and other work-people employed therein; and the terms as to the situation and construction of any such places as may be permitted;
- (h) the attendance and the enforcement of the contract or agreement of any person who has contracted or agreed to manufacture, excavate or collect salt at any salt-work under the immediate management and control of Government;
- (i) the licensing and control of hamals and labourers for hire by whomsoever employed at salt-works, and at preventive stations;
- (j) the grant of amended or duplicate copies of documents relating to proceedings under this Act, and the fees to be charged for such copies.

59. In making a rule under this Act, the Governor in Council may direct that a breach of it shall be punishable with fine which may extend to two hundred rupees and, in default of payment of the fine, with simple imprisonment for a term which may extend to one month.

Penalties may be attached by the Governor in Council to breach of rules.

60. All rules made under this Act shall be published in the *Bombay Government Gazette* and, in Sind, in the *Sind Official Gazette*, and shall thereupon have the force of law.

Publication of rules.

61. (1) No person shall be liable to any penalty or to payment of damages on account of any act done or order made in good faith, in pursuance or intended pursuance of any duty imposed or any authority conferred on him by this Act, or by any rule, order or direction made or appearing to have been made under the provisions thereof by a person having or appearing to have authority in that behalf.

No person to be liable to penalty or damages for act done in good faith in pursuance of duty.

(2) In the case of an alleged offence or wrong on the part of any person by any act done under colour or in excess of any such duty or authority as aforesaid, or wherein it shall appear to the Court that the offence if committed or the wrong if done was of the character aforesaid, the prosecution or

No suit or prosecution in respect of an act done under colour of duty as aforesaid shall be entertained, or shall be dismissed, if not instituted within six months.

suit shall not be entertained, or shall be dismissed if instituted, more than six months after the act complained of.

(3) In the case of an intended suit on account of such a wrong as aforesaid, the person intending to sue shall be bound to give to the alleged wrong-doer one month's notice at least of the intended suit, with a sufficient description of the wrong complained of, failing which such suit shall be dismissed.

(4) The plaintiff shall set forth that a notice as aforesaid has been served on the defendant and the date of such service, and shall state whether any and if any what tender of amends has been made by the defendant. A copy of the said notice shall be annexed to the plaintiff's complaint endorsed or accompanied with a declaration by the plaintiff of the time and manner of service thereof.

Act No. III. of 1890.

PUBLISHED BY THE GOVERNOR OF BOMBAY ON THE 21ST AUGUST, 1890.

An Act to amend the Matádárs Act (Bombay VI. of 1887).

WHEREAS it is expedient to amend the Matádárs Act, 1887; It is hereby enacted as follows:—

1. In the proviso to section 6 of the said Act for all after the words "in such village appertains" there shall be substituted the following:—

"to one or more than one of such families to the exclusion of the remainder of such families and shall vest in such order as he may thereby determine, and every such declaration shall be conclusive evidence of the rights thereby affirmed."

2. For section 14 of the said Act the following shall be substituted:—

"In every village in which the Governor in Council makes a declaration under section 6 the right to the office of patel shall vest to the exclusion of all other matádárs in the representative of each of the families whose rights are thereby declared in such order as may therein be determined."

Bombay Act No. IV. of 1890.

PUBLISHED BY THE GOVERNOR OF BOMBAY ON THE 4TH SEPTEMBER, 1890.

THE BOMBAY DISTRICT POLICE ACT, 1890.

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An Act to amend the law for the regulation of the District Police in the Presidency of Bombay.

WHEREAS it is expedient to amend the law for the regulation of the District Police of the Presidency of Bombay; It is enacted as follows:—

CHAPTER I.—PRELIMINARY.

Short title.

1. This Act may be ^{called} "The Bombay ^{Dist.} District Police Act, 1890."

(1) It extends to the whole of the presidency of Bom Sind, the city of Bombay, Aden dependencies, and Perim.

Extent.

1 Ann. 11/18 & 1/18 substitutes

a new act. entitled for this original

sub-ss (1) (2) Extension to Sind, Aden and its dependencies and Perim.

(2) It, including the sch introduced wholly or in part in and its dependencies and Perim Government.

2. 11/18 & 2 (1) & 2 P. 6. 11.

2. Subject to the provision in section 1, sub-section mentioned in schedule A ar extent specified in the thi but not so as to render invalid anything done in accordance

All references made in any enactment of the Gov Council to any enactment hereby repealed shall be read as if made to the corresponding portion of this Act.

All rules prescribed, appointments made, powers conferred, and orders and certificates issued under any such enactment shall, so far as they are consistent with this Act, be deemed to have been respectively prescribed, made, conferred and issued hereunder,

3. In this Act, unless there be something repugnant in the subject or context;

(a) "Inspector General," "Deputy Inspector General," District Superintendent" and "Assistant Superintendent" mean, respectively, the Inspector General of Police, a Deputy Inspector General of Police, a District Superintendent of Police appointed under this Act ;

(b) "police officer" means any member of a police force appointed under this Act";

(c) "constable" means a police officer of the lowest grade ;

(d) "district" means a territorial division constituting a district for the purposes of the Code of Criminal Procedure, 1882 ;

(e) "street" includes any highway and the way over any causeway, bridge, viaduct, arch, quay or wharf and any road, lane, foot-way, square, court, alley or passage accessible to the public, whether a thoroughfare or not ;

(f) "cattle" includes elephants, camels, horses, asses, mules, sheep, "Cattle"; goats and swine :

(g) words and expressions which are defined in the Code of Criminal Procedure, 1882, have the same meaning as in that code.
Words and expressions defined in the Criminal Procedure Code.

CHAPTER II.—ORGANIZATION OF THE POLICE.

General.

4. In each district of the presidency of Bombay to which this Act extends, Government may, subject to the control of the Governor General in Council, establish and entertain a police force of such number in the several ranks and having such an organization and such duties, rights and authority as are hereinafter prescribed and provided for, and receiving such salaries and allowances as shall, from time to time, be directed and approved by the authorities aforesaid.

5. (1) For the direction and supervision of the police force of every portion of the presidency to which this Act extends, Government shall appoint an Inspector General of Police, who shall have such functions, authority and responsibility as are hereinafter provided, subject to the provisions of this Act, and to such rules and orders as may be made by Government in this behalf.

(2) Subject to the previous approval of the Governor General in Council, Government may appoint one or more Deputy Inspectors General of Police, to whom Government may assign such duties being amongst the lawful duties of the Inspector General of Police, or in aid and furtherance thereof, as shall to Government seem expedient.

(3) The Inspector General and Deputy Inspector General may be suspended or removed from office by Government.

6. Government may appoint for each district a Superintendent and such Assistant Superintendents of Police as it may think expedient and may dismiss, suspend, reduce, remove or transfer any of such officers as it may think fit.

7. Each Commissioner(a) throughout the districts under his control, and the Inspector General of Police throughout the presidency, Commissioners and Inspector General to have magisterial powers ;

shall have the powers of a Magistrate of the first class, but shall exercise to exercise them subject to such powers subject to such limitation as may, such limitations as are imposed from time to time, be imposed by Government. Government.

8. The Inspector General may, subject to the rules and orders of Government, appoint such inspectors as shall be necessary for the service of each district.

Appointment of inspectors.

9. Police officers below the grade of inspector shall be appointed in each district by the District Superintendent, subject to such rules as to sanction, designations, mutual relations and conditions of service as, consistently with the law at the time in force, Government may, from time to time, prescribe.

Appointment of police officers below the grade of inspector.

10. An inspector shall, on appointment, receive from the Inspector General a certificate of appointment containing particulars of his race, name, age, caste or religion and of his previous service, if any.

Certificates of appointment to be given to inspectors.

11. (1) Every police officer below the grade of inspector shall, on enrolment, receive a certificate in the form of schedule B under the seal of the Magistrate of the District in which he is enrolled.

Certificates of office to be given to police officers below the grade of inspector.

(2) Every person appointed as aforesaid shall, in virtue of such appointment, be vested with the powers, functions, privileges and responsibilities of a police officer.

Powers, &c., of persons appointed as aforesaid.

(3) a. Every certificate of appointment shall become null and void whenever the person named therein for any reason ceases to belong to the police.

Such certificates when to become null and void.

b. The powers, functions and privileges vested in a police officer shall be temporarily suspended whilst such police officer is suspended from office. Such police officer shall not by reason of such suspension cease to be a police officer, but shall continue subject to the same responsibilities and subject to the same authorities as if no such suspension had taken place.

Temporary suspension of powers, &c., of police officers.

12. The District Superintendent shall, subject to the orders of the Inspector General and of the Magistrate of the District, within their several spheres of authority, direct and regulate all matters of arms, drill, exercise, observation of persons and events, mutual relations, distribution

General powers of District Superintendent.

of duties, study of laws, orders and modes of proceeding and all matters of executive detail in the fulfilment of their duties by the police force of his district.

13. (1) The District Superintendent and the police force of a district shall be under the command and control of the Magistrate of the District.

Control by Magistrate of the District:

(2) In exercising authority under the preceding sub-section, the Magistrate of the District shall be governed by such rules and orders as Government may, from time to time, make in this behalf and shall be subject to the lawful orders of the Commissioner.

Subject to rules and orders of Government and lawful orders of the Commissioner.

Inspector General in issuing rules and orders to give furtherance to purposes of sub-section(1).

(3) The Inspector General shall be bound, in the rules and orders issued by him under this Act, to give furtherance to the purposes of sub-section (1).

14. If the Magistrate of the District considers that there is, or on any particular occasion will be, pressing need for a police force that cannot be furnished by his own district, he shall communicate with the Inspector General, who shall, as far as possible, and subject to the orders of Government, comply with the requisitions of the Magistrate of the District.

Additional police force to be furnished to any district by the Inspector General on requisition of District Magistrate.

15. The Magistrate of the District may require from the District Superintendent reports, either particular or general, on any matter connected with crimes, the condition of the criminal classes, the prevention of disorder, the regulation of assemblies and amusements, the distribution of the police force, the utilization of auxiliary means and all other matters in furtherance of his control of the police force and the maintenance of order.

District Superintendent may be required by District Magistrate to furnish reports.

16. If the Magistrate of the District observes marked incompetence or unfitness for the locality or for his particular duties, in any officer subordinate to the District Superintendent, he may call on the Superintendent to substitute another officer for any officer whom he has power to remove, and the Superintendent shall be bound to comply with such requisition. In the case of an Inspector or officer of higher grade, the Magistrate of the District may communicate with the Inspector General, who shall thereon determine the measures to be taken with careful attention to the views of the Magistrate of the District and shall inform him of the orders he may issue.

District Magistrate's general powers of supervising the police force of his district.

17. (1) A Commissioner may make any order with respect to the police force in any district within the division subject to his authority which the Magistrate of the District might make, and any order which he may be authorised to make by any rule lawfully made by Government under the provisions of this Act or other law in force, and may also in case of emergency direct any portion of such force appointed for one district to be employed in any other district in such division.

(2) An order under sub-section (1) shall ordinarily be directed to the Magistrate of the district concerned, but may when necessary be addressed directly to the District Superintendent, in which case it shall be communicated to the Magistrate of the District. The order shall, in each case, be communicated by the Commissioner to the Inspector General.

18. In such matters falling under his observation as lie within the sphere of authority of the Inspector General, a Commissioner may call the Inspector General's attention to defects in the police of his division which shall be remedied. Commissioner may call Inspector General's attention to defects in the police of his division which shall be remedied. It shall be incumbent on the Inspector General in every such case to remedy defects, and to remove causes of complaint and to conform to the requests of the Commissioner where the same shall be lawful and consistent with the orders of Government and other lawful commands, requests and instructions. He shall communicate the steps taken by him to the Commissioner.

19. A Commissioner may call on the Magistrate of a District for such reports and information connected with the state of crime in his district and with the distribution of the police therein and on the arrangements for repressing offences and disorder, as he may think necessary, as a means towards the good administration of the division subject to his authority, and may thereon issue such orders as shall be conformable to law. Every such order shall be directed to the Magistrate of the District and shall be communicated to the Inspector General.

20. A Commissioner shall, subject to the orders of Government, have authority to investigate and regulate all matters of account connected with the police within the division subject to his authority, and all persons concerned shall be bound to give him reasonable aid and facilities in conducting such investigations, and to conform to his lawful orders consequent thereon.

Special.

21. (1) Whenever it shall appear to a Magistrate of the Second Class or of higher rank having jurisdiction at a town or place, that any unlawful assembly, riot or other disturbance of the peace has taken place or is reasonably apprehended and that the available police force is not sufficient for the preservation of the peace and for the protection of the inhabitants and the security of property in the local area in which such unlawful assembly, riot or other disturbance has taken place or is apprehended, such Magistrate may, on the application of any police officer not lower in rank than a chief constable, by a written order signed by himself and sealed with his official seal, appoint to be special police officers for such time and within such limits as he shall think necessary, so many persons fit and willing to act as such officers as he shall think proper.

Appointment of special police officers.

(2) Every special police officer so appointed shall have the same powers, functions, privileges and immunities and be liable to the same duties and responsibilities and be subject to the same authorities as an ordinary police officer; but it shall not be necessary for him to receive a certificate of office under section 11.

Powers and responsibilities of special police officers.

Additional.

22. (1) Any District Superintendent, on the application of any person showing the necessity therefor, may depute any additional number of police to keep the peace or to perform other police duties at any place within the district.

Employment of additional police at request of persons showing the necessity therefor.

(2) Such additional police shall be employed at the charge of the person making the application, but shall be subject to the orders of the police authorities and shall be employed for such period as the District Superintendent thinks fit:

Cost thereof.

(3) Provided that if the person upon whose application such additional police are employed shall at any time make a written requisition to the District Superintendent for the withdrawal of the said police, he shall be relieved from the charge therefor on the expiration of such period, not exceeding one month from the date of delivery of such requisition, as the District Superintendent shall determine.

Proviso regarding relief from costs.

(4) In acting under this section the District Superintendent shall be subject to the provisions of section 13 (1).

23. (1) Whenever it shall appear to any Magistrate of a District that the behaviour, or a reasonable apprehension of the behaviour, of the persons employed on any railway, canal or other public work, or in or

Employment of additional police near large works.

upon any manufactory or other commercial concern under construction or in operation at any place within his district, necessitates the employment of additional police at such place, such Magistrate may, with the sanction of Government, depute such additional police to the said place as he shall think fit and keep the said police employed at such place for so long as such necessity shall appear to him to continue.

(2) Such additional police shall be employed at the charge of the person by whom the work, manufactory or concern is being constructed or carried on, and the said person shall pay the charges therefor at such rates and at such times as the Magistrate of the District, with the sanction of Government, shall, from time to time, require.

24. In case of any dispute in any case under section 22 or section 23, the decision of the Magistrate of the District shall be conclusive as to the amount to be paid and as to the person by whom it is to be paid, and the sum so ascertained may, on the requisition of the Magistrate of the District, be levied by the Collector as if it were an arrear of land revenue due by the person found to be answerable therefor.

25. (1) Government may, from time to time, by notification direct the employment of additional police for such period as it shall think fit in any local area which shall appear to it to be in a disturbed or dangerous state, or in which the conduct of the inhabitants or of any particular section of the inhabitants shall, in its opinion, render it expedient temporarily to increase the strength of the police.

¹ See Bom. III/98 83 (28) for a new sub-sec (2) as to 6 1/2 p. 11. (2) The cost of such additional police shall, if Government so direct, be defrayed, either wholly or partly, by a rate charged on the inhabitants generally or on any particular section of the inhabitants of the local area to which the notification

² added by Bom. III/98 132 applies. d. 4.

³ a new sub-section (2) instead of this. ⁴ Assessment of the cost.

⁵ See Bom. III/98 83 (28) for a new sub-sec (2) as to 6 1/2 p. 11. (3) municipal district, the amount of the charge shall be paid by the municipality from the municipal fund and the rate shall be assessed by the municipality conformably to the direction given by Government under sub-section (2).

⁴ a new sub-section (2) added by Bom. III/98 83 (28) for a new sub-sec (2) as to 6 1/2 p. 11. ⁵ 26. (1) Every rate assessed under the last preceding sections or other provision of this Act by a municipality shall be recovered by such municipality from each person answerable therefor in the same manner as a municipal tax due by him.

⁵ a new sec 26A (1) (4) Recovery of rates and charges added by Bom. III/98 83 (28) under section 25 by a municipality. ⁶ inserted by Bom. III/98 83 (28) d. 8 (1) 24

⁷ Bom. III/98 83 (1) 24 678 ⁷ Provided

- (2) Every ^{tax imposed or amount recoverable} rate assessed by the Collector as aforesaid shall be recoverable ^{Bmā/930812} by the Collector as if it were an arrear of land revenue due by the person answerable therefor.

26 A²2 added by Bmā/19809.
19809.

CHAPTER III.—REGULATION, CONTROL AND DISCIPLINE OF THE POLICE FORCE.

27. Subject to the orders of Government, the Inspector General may, from time to time, make rules or orders not inconsistent with this Act or with any other enactment at the time in force :

Framing of rules for administration of the police.

- (a) relating to the recruitment, organization, classification and discipline of the police ;
- (b) regulating the inspection of the police by his subordinates ;
- (c) determining the description and quantity of arms, accoutrements, clothing and other necessities to be furnished to the police ;
- (d) for the institution, management and regulation of any police fund for any purpose connected with police administration ;
- (e) regulating, subject to the provisions of section 13, cl. (1), and section 17, the distribution, movements and location of the police ;
- (f) regulating the duties of police officers of different grades ;
- (g) regulating the collection and communication by the police of intelligence and information ;
- (h) generally for the purpose of rendering the police efficient and preventing abuse or neglect of their duties.

28. The Inspector General of Police may, subject to the rules and orders of Government, call for such returns, reports and statements on subjects connected with the suppression of crime, the maintenance of order and the performance of their duties, as his subordinates may be able to furnish to him. He will communicate to the Magistrate of the District and the Commissioner any general orders issued by him for the purposes aforesaid or in consequence of the information furnished to him, and also any orders which Government may direct.

Punishment of police officers departmentally for neglect of duty, &c.

29. (1) The Governor in Council, or any officer authorized by subsection (3) in that behalf, may suspend, reduce or dismiss any police officer whom he shall think cruel, perverse, remiss or negligent in the discharge of his duty or unfit for the same,

and may fine, to an amount not exceeding one month's pay, any police officer below the grade of Assistant Superintendent who is guilty of any breach of discipline or misconduct which does not require his suspension or dismissal or who, by any act of his own, renders himself unfit for the discharge of his duty.

(2) Any punishment inflicted on a police officer under this section shall be in addition to the penalty to which such officer is liable under section 36, 63 or 64 of this Act or any other law in force.

Punishment under this section to be in addition to penalty under section 36, 63 or 64.

(3) The Inspector General shall have authority to punish an inspector under sub-section (1). A District Superintendent shall have the like authority in respect of any police officer subordinate to him below the grade of inspector and may suspend an inspector who is subordinate to him, pending inquiry into a grave complaint against such inspector and until an order of the Inspector General can be obtained. But the exercise of any power conferred by this sub-section shall be subject always to such rules and orders as may be made by Government in that behalf.

Punitive powers of Inspector General and Superintendent.

30. When any officer passes an order for fining, suspending, reducing or dismissing a police officer, he shall record such order or cause the same to be recorded, together with the reasons therefor and a note of the inquiry made, in writing, under his signature, in the language of the district or in English.

Procedure to be observed in awarding punishment.

31. (1) The Inspector General and any District Superintendent and any Assistant Superintendent in charge of a portion of a district may punish, by confinement for a period not exceeding three days, any police officer below the rank of head-constable who is, in his presence, grossly insubordinate or who is insolent to him.

Departmental punishment for insubordination.

(2) Every order for punishing a police officer as aforesaid shall be recorded in the manner prescribed in section 30 and a copy of every such order made by a District Superintendent or an Assistant Superintendent shall be forwarded by him to his immediate superior.

Procedure to be observed in awarding such punishment.

32. (1) Every police officer shall, for all purposes of this Act, be deemed to be always on duty in the area for which he is appointed or to which he is lawfully transferred, and any police officer and any number or body of police officers appointed for one part of the presidency may, if Government or the Inspector General

Police officers to be deemed to be always on duty and to be liable to employment in any part of the presidency.

so direct, at any time be employed on police duty in any other part of the presidency for so long as the services of the same be there required.

(2) Timely intimation shall, except in cases of extreme urgency, be given to the Commissioner and Magistrate of the District by the Inspector General of any proposed transfer under this section, and except where secrecy is necessary the reasons for the transfer shall be explained; whereupon the officers aforesaid and their subordinates shall give all reasonable furtherance to such transfer.

33. (1) No police officer shall engage in trade or be in any way concerned, either as principal or agent, in the purchase or sale of land within the district wherein he is employed or in any commercial transaction whatever, without the permission of the Magistrate of the District, or of Government.

Police officer not to engage in trade, &c.

(2) No police officer under the rank of Assistant Superintendent shall, unless with the written permission of the Inspector General, hold any office, or practice in any profession, or engage in any employment whatever, other than his office or duties as such police officer.

Police officers under the rank of Assistant Superintendent not to be employed on other than police duties.

These prohibitions to apply also when a police officer is on leave or under suspension.

(3) The prohibitions in sub-sections (1) and (2) apply when a police officer is on leave or under suspension as well as when he is on duty.

34. (1) Unless with the written permission of the District Superintendent or of some other police officer empowered by the Inspector General to grant such permission, no police officer under the rank of Assistant Superintendent shall resign his office or withdraw himself from the duties thereof, until:

Under what conditions police officer may resign.

(a) the expiration of two months after written notice of his intention so to do has been given by him to the District Superintendent; and until

(b) he has fully discharged any debt due by him, as such police officer, to Government or to any police fund:

(2) Provided that if any such police officer produces a certificate signed by the Civil Surgeon declaring him to be unfit by reason of disease or mental or physical incapacity for further service in the police, the necessary written permission to resign shall forthwith be granted to him, on his discharging or giving satisfactory security for the payment of any debt due by him as aforesaid.

Proviso.

(3) If any such police officer as aforesaid resigns or withdraws himself from the duties of his office in contravention of this section, he shall be liable, on the order of the District Superintendent, to forfeit all arrears of pay then due to him. This forfeiture shall be in addition to the penalty to which the said officer is liable under section 36 of this Act or other law in force.

35. (1) Every person who, for any reason, ceases to be a police officer shall forthwith deliver up to some officer, empowered by the District Superintendent to receive the same, his certificate of appointment or of office and the arms, accoutrements, clothing and other necessaries which have been furnished to him for the execution of his office.

Certificate, arms, &c., to be delivered up by person ceasing to be a police officer, and if not delivered up, may be seized under a search warrant.

(2) Any Magistrate and, for special reasons which shall be recorded in writing at the time, any District Superintendent may issue a warrant to search for and seize, wherever they may be found, any certificate, arms, accoutrements, clothing or other necessaries not so delivered up. Every warrant so issued shall be executed in accordance with the provisions of the Code of Criminal Procedure, 1882, by a police officer or, if the Magistrate or District Superintendent issuing the warrant so directs, by any other person.

(3) Nothing in this section shall be deemed to apply to any article which, under the orders of the Inspector General, has become the property of the person to whom the same was furnished.

36. (1) Any person who makes a false statement or uses a false document for the purpose of obtaining employment or release from employment as a Police officer; or

(2) Any police officer who:

for misconduct of police officers. (a) contravenes any provision of section 33; or

(b) is guilty of cowardice; or

(c) resigns his office or withdraws himself from the duties thereof in contravention of section 34; or

(d) is guilty of any wilful breach or neglect of any provision of law or of any rule or order which, as such police officer, it is his duty to observe or obey; or

8. 35.—A police officer under suspension does not cease to be a police officer [see S. 11 (3)b]; and is not, therefore, bound to deliver up his clothing under this section. Cr. Eg. 27th Nov. 1890.

(e) is guilty of any violation of duty for which no punishment is expressly provided by any other law in force;

shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

(3) A police officer who, being absent on leave, fails, without reasonable cause, to report himself for duty on the expiration of such leave shall, for the purposes of clause (c), be deemed to withdraw himself from the duties of his office within the meaning of section 34.

37. Any police officer who wilfully neglects or refuses to deliver up his certificate of appointment or of office or any other article, in accordance with the provision of sub-section (1) of section 35, shall be punished with imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

38. Government, whenever it shall seem necessary, may by notification make an order to such effect as any order which if made by a Magistrate under section 144 of the Code of Criminal Procedure could be continued in force by Government under the enactment aforesaid.

CHAPTER IV.—POLICE REGULATIONS.

39. (1) In any town or other place in which he thinks fit, the Magistrate of the District may, from time to time, and subject to such orders as may have been made by a municipal or other authority empowered in that respect, make rules or orders:

Rules may be made by District Magistrate regarding use of streets, &c.

- (a) closing certain streets or places temporarily, in cases of danger from ruinous buildings or other cause, with such exceptions as shall appear reasonable;
- (b) for guarding against injury to persons and property in the construction, repair and demolition of buildings, platforms and other structures from which danger may arise to passengers, neighbours, or the public;
- (c) regulating the leading, driving, conducting, or conveying of any elephant or wild or dangerous animal through or in any street;
- (d) prohibiting the hanging or placing of any cord or pole across a street or part thereof, or the making of a projection or structure so as to obstruct traffic or the free access of light and air;

- (e) prescribing certain hours of the day during which ordure and offensive matter or objects shall not be taken from or into houses or buildings in certain streets or conveyed through such streets, and during which cattle shall not be driven along the streets, or along certain specified streets, except subject to such reasonable regulations as he may prescribe in that behalf ;
- (f) prohibiting the setting fire to or burning any straw or other matter, or lighting a bonfire, or wantonly discharging a fire-arm or air-gun, or letting off or throwing a firework, or sending up a fire-balloon in or upon or within fifty feet of a street or building, or the putting up of any post or other thing on the side of or across a street for the purpose of affixing thereto lamps or other contrivances for illumination, except subject to such reasonable regulations as he may prescribe in that behalf ;
- (g) prohibiting, except under such reasonable regulations as the Magistrate of the District may impose, the making of any excavation, the placing of building materials or other articles, or the fastening or detention of any horse or other animal in any street ;
- (h) prohibiting, save under such regulations as aforesaid, the exposure or movement in any street of persons or animals suffering from contagious or infectious diseases and the carcasses of animals or parts thereof and the corpses of persons deceased ;
- (i) setting apart places for the slaughtering of animals, the cleaning of carcasses or hides, the deposit of noxious or offensive matters, and for obeying calls of nature ;
- (j) in cases of existing or apprehended epidemic or infectious disease of men or animals, with respect to cleanliness and disinfection of premises by the occupier thereof and residents therein, and as to the segregation and management of the persons or animals diseased or supposed to be diseased, as may have been directed or approved by Government with a view to prevent the disease or to check the spreading thereof ;
- (k) directing the closing or disuse, wholly or for certain purposes, or limiting to certain purposes only the use, of any source, supply or receptacle of water ; and providing against pollution of the same or of the water therein ;
- (l) regulating the hours during which and the manner in which any place for the disposal of the dead, any dharmshāla, village-gate or other place of public resort may be used, so.

to secure the equal and appropriate application of its advantages and accommodation and to maintain orderly conduct amongst those who resort thereto;

- (m) regulating the entrance and exit of persons at theatres and other places of public amusement or assembly, the decent and orderly conduct of proceedings therein, and the movement of persons, animals and vehicles at such times and such places at which in the opinion of the Magistrate special regulations may be necessary for the public safety and convenience.

- (2) Every regulation made under clause (h) or made under clause (l)

Manner of publication of such rules.

with respect to the use of a place for the disposal of the dead shall be framed with due regard to ordinary and established usages and to the necessities of prompt disposal of the dead in certain cases; and every rule or order made by the Magistrate of the District under clause (c), (e), (f), (g), (h), or (i) shall be published by affixing a copy thereof, in the language of the district, in the *chavdi* or in some other public building in the town or place in which the same is to have operation, and a copy, in the language of the district, of every rule or order made under clause (a), (b), (j), (k), or (l) shall be kept affixed in a conspicuous spot near to the building, structure, work or place to which the same specially relates.

- (3) Every rule promulgated under the authority of article (j) of clause

Rules under clause 1 (j) to be reported to Government.

(1) of this section shall be forthwith reported to Government and shall be in force for not more than fifteen days unless extended by Government for a longer period and in such case for so long as Government directs.

- (4) It shall be the duty of all persons concerned to conform to any order duly made as aforesaid so long as the same shall be in operation.

40. Every Magistrate of a District may, from time to time, make rules

District Magistrates may make rules for blasting and excavation.

for the blasting of rocks or for making excavations in or near any street in any town or village in his district and may provide in such rules for the grant of licenses for such operations.

41. On complaint being made to a Magistrate of a District or of a Sub-

Discontinuance of brothels.

division that any house in a town or village in his district or sub-division, to which Government has by notification extended this section, is used as a common brothel or lodging-house or place of resort for prostitutes or disorderly persons of any description, to the annoyance of the respectable inhabitants of the vicinity, the said Magistrate may summon the owner or tenant of the house to answer the complaint, and on being satisfied that the house is so used may order the

S. 41.—This section is extended to the towns of Dharwar and Hubli in the Dharwar District, G. G. 1890, p. 1125; to the city of Satara, *ib.* p. 1198; to the city of Poona and its suburbs, *ib.* p. 1313; and to the towns of Ahmednagar and Bhingar, *ib.* 1891, p. 85.

owner or tenant, within a reasonable period which shall be set forth in the order, to discontinue such use of it.

42. (1) The Magistrate of the District, or in his absence and subject to his order the Magistrate of the First Class having jurisdiction in any town or village and present therein or in the neighbourhood thereof, may, whenever and for such time as it shall appear necessary, by a notification publicly promulgated or addressed to individuals, prohibit in such town or village or the vicinity thereof the carrying of arms, cudgels or other weapons, the carrying, collection and preparation of stones or other missiles or instruments or means of casting or impelling missiles, the exhibition of persons or of corpses or figures thereof, the public utterance of cries, singing of songs, delivery of harangues and use of gestures or mimetic representations, and the preparation, exhibition or dissemination of pictures, symbols, placards or of any other object or thing, which may be of a nature to outrage morality or decency or, in the opinion of such Magistrate, may probably inflame religious animosity or hostility between different classes or incite to the commission of an offence, to a disturbance of the public peace or to resistance to or contempt of the law, or of a lawful authority.

(2) If in any town or village or the vicinity thereof there are two or more Magistrates of the First Class having jurisdiction therein, a prohibition as aforesaid may be made by any one of them.

(3) An order made under this section by a subordinate Magistrate shall be forthwith communicated to the Magistrate of the District who shall thereupon confirm, cancel or modify the same as shall seem expedient.

43. In order to prevent an impending or apprehended riot or grave disturbance of the peace the Magistrate of the District may temporarily close or take possession of any building or place and may exclude all or any persons therefrom or may allow access thereto to such persons only and on such terms as he shall deem expedient. All persons concerned shall be bound to conduct themselves in accordance with such order as the Magistrate may make and notify in the exercise of the authority hereby vested in him.

44. (1) In any case of an actual or intended religious or ceremonial or corporate display or exhibition or organized assemblage in any street as to which or the conduct of or participation in which it shall appear to the Magistrate of the District that

Issue of orders by Magistrate of the District for maintenance of order at religious ceremonies, &c.

S. 43.—The High Court has no jurisdiction to interfere with an order duly made by the Magistrate of the District under this section. Cr. Rg. 3rd March, 1891.

a dispute or contention exists which is likely to lead to grave disturbance of the peace, such Magistrate may give such orders as to the conduct of the persons concerned towards each other and towards the public as he shall deem necessary and reasonable under the circumstances, regard being had to the apparent legal rights and to any established practice of the parties and of the persons interested. Every such order shall be published in the town or place wherein it is to operate, and all persons concerned shall be bound to conform to the same.

(2) Any order made under the foregoing sub-section shall be subject to a decree, injunction or order made by a Court

Orders to be subject to decrees, &c., of Courts.

having jurisdiction, and shall be recalled or altered on its being made to appear to the Magistrate of the District that such order is inconsistent with a judgment, decree, injunction or order of such Court, on the complaint, suit or application of any person interested, as to the rights and duties of any persons affected by the order aforesaid.

45. (1) Whenever it shall appear to the Magistrate of a District that any place in the district, at which, on account

District Magistrate may take special measures to prevent outbreak of epidemic disease at fairs, &c.

of a fair, pilgrimage or other such occurrence, large bodies of persons have assembled or are likely to assemble, is visited or will probably

be visited with an outbreak of any epidemic disease, he may take such special measures and may by public notice prescribe such regulations to be observed by the residents of the said place and by persons present thereat or repairing thereto or returning therefrom as he shall deem necessary to prevent the outbreak of such disease or the spread thereof.

(2) It shall be lawful for the Magistrate of the District or for the Collector on the requisition of the Magistrate

Levy of fees in such cases.

of the District, subject to the orders of Government, to assess and levy such reasonable fees on persons falling under the provisions of sub-section (1) as will provide for the expenses of the arrangements for sanitation and the preservation of order at and about the place of assemblage.

(3) When the place of assemblage is within the limits of a municipa-

Recovery of expenses from Municipalities.

lity such sums as shall be necessary for the purposes aforesaid may be recovered from the municipality.

46. Whenever it shall appear to the Magistrate of a District or to any Sub-divisional Magistrate that the movement or

Dispersal of gangs and bodies of persons.

encampment of any gang or body of persons in the district is causing or is calculated to cause danger or alarm or reasonable suspicion that unlawful designs are entertained by such gang or body or by members thereof, such Magistrate may,

by notification addressed to the persons appearing to be the leaders or chief men of such gang or body and published by beat of drum or otherwise as such Magistrate thinks fit, direct the members of such gang or body so to conduct themselves as shall seem necessary in order to prevent violence and alarm, or to disperse and each of them to remove himself to such place by such route as such Magistrate shall prescribe.

47. (1) For the purpose of preventing serious disorder or breach of the law or manifest and imminent danger to the persons assembled, at any public place of amusement or at any assembly or meeting to which the public are invited or which is open to the public, the senior police officer of highest rank superior to that of constable, present in the town or village where such place of amusement is situated or such assembly or meeting is to be held, may, subject to such rules and orders as may have been lawfully made, give such reasonable directions as to the mode of admission of the public to, and for securing the peaceful and lawful conduct of the proceedings at, such place of amusement or such assembly or meeting, as he thinks necessary; and all persons shall be bound to conform to every such reasonable direction.

(2) The police shall have free access to every such place of amusement, assembly or meeting, for the purpose of giving effect to the provisions of sub-section (1) and to any direction made thereunder.

48. (1) The District Superintendent or an Assistant Superintendent may, subject to any rule or order which may at any time be legally made by any Magistrate, or other authority duly empowered in this behalf:

Police to regulate assemblies, &c., in public streets.

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- (a) make rules for and direct the conduct of assemblies and processions and moving crowds or assemblages on or along the streets, and prescribe, in the case of processions, the routes by which, the order in which, and the times at which the same may pass;
- (b) regulate and control, by the grant of licenses or otherwise, the playing of music, the beating of drums, tom-toms or other instruments and the blowing or sounding of horns or other noisy instruments in or near a street;
- (c) make reasonable orders subordinate to and in furtherance of any order made by a Magistrate under sections 39—46 of this Act.

(2) Every rule and order made under this section shall be published at or near the place where it is to operate, or shall be notified to the person affected thereby, and all persons concerned shall be bound to act conformably thereto.

Manner of publication of such rules and orders.

49. (1) The Magistrate of the District may by public notice, extending to such place or places within the district as shall therein be named, require every dog, while in the streets and not led by some person, to be muzzled in such a manner as will admit of the animal breathing and drinking without obstruction and effectually prevent it from biting, and the police may, except as is hereinafter in sub-section (2) provided, destroy any dog found loose in any place beyond the premises of the owner thereof during the currency of such order, or may take possession of any such dog and detain the same until the owner has claimed it, has provided a proper muzzle, and has paid all expenses connected with such detention.

(2) The police shall not destroy any dog which wears a collar bearing a known owner's name, unless such dog is rabid, until the same has remained in their possession for three clear days without the owner claiming it and paying all expenses incurred by its detention; but may sell or destroy any dog which has remained in their possession for the said period without the owner claiming it and paying the said expenses.

How expenses may be recovered.

(3) For the expenses incurred under the preceding sub-sections the owner of the dog shall be answerable as for an arrear of land revenue.

(4) When any dog taken possession of by the police wears a collar with the apparently genuine address of any person inscribed thereon, a letter stating the fact of such dog having been taken possession of shall be forthwith sent by post to the said address.

50. Every power conferred by this chapter on a District Superintendent or officer subordinate to him shall be exercised by him subject to the orders of the Magistrate of the District, and all rules, regulations and orders made by the Magistrate of the District under this chapter shall be subject to the provisions of section 13 (2).

Powers under this chapter to be exercised by District Superintendent subject to control of District Magistrates and by District Magistrates subject to control of Government.

CHAPTER V.—EXECUTIVE POWERS AND DUTIES OF THE POLICE.

Duties of police officer.

51. (1) Every police officer shall:
(a) promptly obey and execute every warrant or other order lawfully issued to him by competent authority; and shall, by all lawful means, endeavour to give effect to the commands of his superior;

- (b) to the best of his ability, obtain intelligence concerning the commission of cognizable offences or designs to commit such offences, and lay such information and take such other steps, consistent with law and with the orders of his superiors, as shall be best calculated to bring offenders to justice or to prevent the commission of offences;
- (c) to the best of his ability, prevent the commission of public nuisances;
- (d) apprehend all persons whom he is legally authorized to apprehend and for whose apprehension there is sufficient reason;
- (e) aid another police officer when called on by him or in case of need in the discharge of his duty, in such ways as would be lawful and reasonable on the part of the officer aided;
- (f) discharge such duties as are imposed upon him by any law relating to revenue or other law at the time in force.

(2) Every police officer may, subject to the rules and orders made by Government or by a person lawfully authorized, enter for any of the said purposes, without a warrant, and inspect any place of public resort and any place which he has reason to believe is used as a drinking-shop, or a shop for the sale of intoxicating drugs or a place of resort of loose and disorderly characters.

(3) When in a street or place of public resort a person has possession or apparent possession of any article which a police officer in good faith suspects to be stolen property, such police officer may search for and examine the same and may require an account thereof, and should the account given by the possessor be manifestly false or suspicious, may detain such article and report the facts to a Magistrate, who shall thereon proceed according to sections 523 and 525 of the Code of Criminal Procedure or other law in force.

Duties of police officers toward the public.

52. It shall be the duty of every police officer:

- (a) to afford every assistance within his power to disabled or helpless persons in the streets and to take charge of intoxicated persons and of lunatics at large who appear dangerous or incapable of taking care of themselves;
- (b) to take prompt measures to procure necessary help for any person under arrest or in custody, who is wounded or sick, and, whilst guarding or conducting any such person, to have due regard to his condition;
- (c) to arrange for the proper sustenance and shelter of every person who is under arrest or in custody;

- (d) in conducting searches, to refrain from needless rudeness and the causing of unnecessary annoyance ;
- (e) in dealing with women and children, to act with strict regard to decency and with reasonable gentleness ;
- (f) to use his best endeavours to prevent any loss or damage by fire ;
- (g) to use his best endeavours to avert any accident or danger to the public.

53. (1) It shall be the duty of a police officer :

- (a) to regulate and control the traffic in the streets, to prevent obstructions therein, and, to the best of his ability, to prevent the infraction of any rule or order made under this Act or any other law in force for observance by the public in or near the streets;
Police to regulate traffic, &c., in streets ; and
- (b) to keep order in the streets and at and within public bathing, washing and landing places, fairs, temples and all other places of public resort and in the neighbourhood of places of public worship during the time of public worship ;
to keep order in the streets and other public places ; and
- (c) to regulate resort to public bathing, washing and landing places, to prevent overcrowding thereat and in public ferry-boats, and, to the best of his ability, to prevent the infraction of any rule or order lawfully made for observance by the public at any such place or on any such boat.
to regulate resort to public places.

(2) All persons shall be bound to conform to the reasonable directions of a police officer given in fulfilment of any of the said duties.
Persons bound to conform to reasonable orders of police.

(3) A police officer may restrain or remove any person resisting or refusing or omitting to conform to any such direction as aforesaid, and may either take such person before a Magistrate or, in trivial cases, may release him when the occasion is past.
Police officer may restrain or remove contumacious person.

54. Whenever a notification has been duly issued under section 42, or an order has been made under section 43 or 44, it shall be lawful for any Magistrate or police officer to require any person acting or about to act contrary thereto to desist or to abstain from so doing, and, in case of refusal or disobedience, to arrest the person offending. Such Magistrate or police officer may also seize any object or thing used or about to be used

in contravention of such notification or order as aforesaid, and the thing seized shall be disposed of according to the order of any Magistrate having jurisdiction at the place.

55. It shall be the duty of the police to see that every regulation and notification made by the Magistrate of the District under section 45, or by the Magistrate of the District or a Sub-divisional Magistrate under section 46, is duly obeyed, to warn persons who from ignorance fail to obey the same, and to arrest any person who wilfully disobeys the same.

Duty of the police to see orders issued under section 45 or 46 carried out.

56. A police officer may take charge of any animal falling under the provisions of the Cattle Trespass Act which may be found straying in a street and may take or send the same to the nearest pound, and the owner and other persons concerned shall thereon become subject to the provisions of the said Act.

Police officer may take charge of stray cattle.

57. The police shall take temporary charge of all unclaimed property found by or made over to them ; and shall deliver all such property to the police patel, if any, of the town or village in which the same was found, and take a receipt therefor from the patel who shall forward such property to the Magistrate to whom such police patel is subordinate. If in any such case there be no police patel of such town or village, the police shall forthwith report to such Magistrate as the Magistrate of the District shall, from time to time, appoint in this behalf, and act thereafter as the said first-mentioned Magistrate shall direct.

Duty of police with regard to unclaimed property.

58. (1) If the property regarding which a report is made to a Magistrate under the last preceding section or under section 19 of the Bombay Village Police Act, 1867, appears to such Magistrate to have been left by a person who has died intestate and without known heirs and to be likely, if sold in public auction, to realize more than ten rupees net proceeds, he shall communicate with the District Judge with a view to its being dealt with under the provisions of section 10 of Regulation VIII. of 1827 (*a Regulation to provide for the formal recognition of heirs, &c.*) or other law in force.

Procedure by Magistrate when the property exceeds ten rupees in value.

(2) In any other case the Magistrate shall issue a proclamation specifying the articles of which such property consists, and requiring any person who may have a claim thereto to appear before himself or some other officer whom he appoints in this behalf and establish his claim within six months from the date of such proclamation. If no person within such period establishes his claim to such property, it shall be at the disposal of Government, and may be sold in public auction under the orders of the Magistrate.

Procedure in other cases.

(3) The provisions of section 10 of the Regulation aforesaid shall be deemed not to apply to intestate property which is dealt with by a Magistrate under sub-section (2).

59. If the property regarding which a report is made as aforesaid is subject to speedy and natural decay or consists of live-stock, or appears to be of less value than five rupees, the Magistrate may at once direct it to be sold in public auction and the provisions of the last preceding section shall, as nearly as may be practicable, apply to the net proceeds of such sale.

60. A police officer of rank superior to that of constable may perform any duty assigned by law or by a lawful order to any officer subordinate to him; and in case of any duty imposed on such subordinate, a superior, where it shall appear to him necessary, may aid, supplement, supersede or prevent any action of such subordinate by his own action or that of any person lawfully acting under his command or authority, whenever the same shall appear necessary or expedient for giving more complete or convenient effect to the law or for avoiding an infringement thereof.

CHAPTER VI.—OFFENCES AND PUNISHMENTS.

61. In any local area to which Government by notification, from time to time, extends this section or any part thereof, Punishment of certain street offences and nuisances: of, whoever contrary thereto:

(a) without lawful excuse drives along, or keeps standing in, any street a vehicle of any description at any time between driving on dark nights without a light; three-quarters of an hour after sunset and one hour before sunrise, without a sufficient light or lights, except when there is sufficient moonlight to render such light unnecessary;

(b) drives a vehicle of any description along a street and does not keep (except in cases of actual disregard the rule of the road; necessity or of some sufficient reason for deviation) on the

S. 61.—As offences under this section are not declared by the Act to be "cognizable offences" the police cannot ordinarily arrest an offender without warrant. Cr. Rg. 12th January, 1891.

—For the local areas to which this section or any part thereof has been extended in the Poona District, see G. G. 1890, pp. 981, 1198; in the Ahmedabad, Ahmednagar, Satara, Sholapur, Broach, Nasik, and Khandesh Districts, see *Ib.* pp. 1051, 1052, and *Ib.* 1891, p. 31, p. 320; in the Panch Mahals, see *Ib.* 1890, p. 1092; in the Surat, Dharwar, Kanara, Kaira, and Belgaum Districts, see *Ib.* 1890, p. 1125, and *Ib.* 1891, pp. 68 and 128; in the Bijapur and Ratnagiri Districts, see *Ib.* 1890, p. 1252; in the Kolaba District, see *Ib.* 1891, p. 69; in the Thana District, see *Ib.* p. 319.

left side of such street when meeting any other vehicle, or on the right side of such street when passing any other vehicle ;

leaving cattle, &c., insufficiently tended ;	(c) leaves in any street insufficiently tended or secured any animal or vehicle;
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(d) causes obstruction, injury, danger or alarm in any street, or mischief, by any misbehaviour, causing obstruction or mischief by animals ; negligence or ill-usage in the driving, management or care of any animal or vehicle, or by driving any vehicle or animal laden with timber, poles, or other unwieldy articles through a street, contrary to any regulation made in that behalf and published by the Magistrate of the District ;

(e) exposes for hire or sale any animal or vehicle, cleans any furniture or vehicle, or cleans, exposing animal for hire or sale, &c. grooms, trains or breaks in any horse or other animal, or makes or repairs any vehicle or any part of a vehicle in any street (unless when in the case of an accident repairing on the spot is necessary), or carries on therein any manufacture or operation so as to be a serious impediment to traffic or a serious annoyance to residents or to the public ;

(f) causes obstruction in any street by allowing any animal or vehicle which has to be loaded causing any obstruction in a street ; or unloaded or to take up or set down passengers, to remain or stand therein longer than may be necessary for such purpose, or by leaving any vehicle standing, or fastening any cattle therein, or using any part of a street as a halting-place for vehicles or cattle, or by leaving any box, bale, package or other thing whatsoever in or upon a street for an unreasonable length of time, or, contrary to any regulation made and published by the Magistrate of the District, by exposing anything for sale or setting out anything for sale in or upon any stall, booth, board, cask, basket or in any other way whatsoever causes obstruction ;

(g) causes obstruction on any footway, or danger, alarm or annoyance by driving, riding or obstructing a footway ; leaving any animal or driving or drawing any vehicle thereupon or fastening any animal so that the same can stand across or upon such footway ;

- (h) exhibits, contrary to any regulation made and notified by the Magistrate of the District, any
 exhibiting mimetic, musical or mimetic, musical or other
 other performances, &c.; performances of a nature to
 attract crowds, or carries or places bulky advertisements,
 pictures, figures, or emblems in any street whereby an ob-
 struction to passengers or annoyance to the inhabitants may
 be occasioned;
- (i) assembles with others or joins any assembly in a street assembled
 for the purpose of gaming or
 gambling in a street; wagering;
- (j) slaughters any animal, cleans a carcass or hide, obeys a call of
 nature, or causes a child to do
 doing offensive acts on or near so, or bathes or washes his
 public streets; person in or near to and
 within sight of a street (except in some place set apart for
 the purpose by order of the District Magistrate or of some
 other person having lawful authority in that behalf), so as
 to cause annoyance to the neighbouring residents or to
 passers-by;
- (k) negligently lets loose any horse or other animal, so as to cause
 danger, injury, alarm or an-
 letting loose horses, &c., and noyance, or suffers a ferocious
 suffering ferocious dogs to be at dog to be at large without a
 large; muzzle, or sets on or urges a
 dog or other animal to attack, worry or put in fear any per-
 son or horse or other animal;
- (l) bathes or washes in or by the side of a public well, tank, or
 reservoir, not set apart for such
 bathing or washing in places purpose by order of the Magis-
 not set apart for those purposes; trate of the District or of
 some other person having lawful authority in that behalf, or
 in or by the side of any pond, pool, aqueduct, part of a river,
 stream, nála or other source or means of water-supply in
 which such bathing or washing is forbidden by order of the
 Magistrate of the District or other person having lawful
 authority in that behalf;
- (m) defiles, or causes to be defiled, the water in any public well,
 tank, reservoir, pond, pool,
 defiling water in public wells, aqueduct or part of a river,
 &c.; stream, nála or other source
 or means of water-supply, so as to render the same less fit for
 any purpose for which it is set apart as aforesaid;

- (n) obstructs or incommodes a person bathing at a place set apart for that purpose as aforesaid, obstructing bathers; by wilful intrusion or by using such place for any purpose for which it is not so set apart;
- (o) wilfully and indecently exposes his person, uses indecent language or behaves indecently behaving indecently in public; or riotously or in a disorderly manner in a street or place of public resort, or in any public office, station or station-house;
- (p) is drunk and incapable of taking care of himself in a street or being drunk and incapable; place of public resort;
- (q) wilfully pushes, presses, hustles or obstructs any passenger in a street, or by violent movements, obstructing or annoying passengers in the streets; menacing gestures, wanton personal annoyance, screaming, shouting, wilfully frightening horses or cattle, or otherwise disturbs the public peace or order;
- (r) uses in any street any threatening, abusive or insulting words or behaviour, with intent to provoke a breach of the peace or whereby a breach of the peace may be occasioned;
- (s) begs importunately for alms or exposes or exhibits, with the object of exciting charity, any begging and exposing offensive ailments. deformity or disease or any offensive sore or wound, in or near to and within sight of any street;

shall be punished with fine which may extend to fifty rupees.

62. (1) Whoever cruelly beats, goads, overworks, ill-treats or tortures or causes or procures to be cruelly beaten, goaded, overworked, ill-treated, or tortured any animal;

Punishment for cruelty to animals. shall be punished with imprisonment which may extend to one month, or with fine which may extend to one hundred rupees, or with both.

(2) Jurisdiction in cases arising under this section shall not be exercised by a Magistrate of lower rank than the First Class unless such Magistrate be specially invested with jurisdiction for that purpose by Government.

Penalty for vexatious search, arrest, &c., by the police.

63. Any police officer who :

- (a) without lawful authority or reasonable cause, enters or searches or causes to be entered or searched any building, vessel, tent or place ; or

- (b) vexatiously and unnecessarily seizes the property of any person ; or
- (c) vexatiously and unnecessarily detains, searches or arrests any person ; or
- (d) offers any unwarrantable personal violence to any person in his custody ;
- (e) holds out any threat or promise not warranted by law to a person accused ;

shall, for every such offence, be punished with imprisonment for a term not exceeding two months, or with fine which may extend to five hundred rupees, or both.

64. Any police officer who vexatiously and unnecessarily delays forwarding any person arrested to a Magistrate or to any other authority to whom he is legally bound to forward such person, shall be punished with fine which may extend to two hundred rupees.

Penalty for vexatious delay in forwarding a person arrested.

65. Whoever ;

Penalty for contravention of rules under section 39 or of directions under section 53. (a) contravenes any rule made under section 39, or

(b) opposes or fails to conform to any direction given by the police under section 53 ;

(c) abets the commission of any offence under clause (a) or (b) ;

shall be punished with fine which may extend to fifty rupees.

66. Whoever contravenes any rule made under section 40 or any condition of any license granted under the said rules shall be punished with fine which may extend to one hundred rupees.

Penalty for contravening rules, &c., under section 40.

67. Whoever fails to comply with an order made under section 41 shall be punished with fine which may extend to twenty-five rupees for every day that such order continues to be disobeyed by him.

Penalty for failure to comply with order under section 41.

68. Whoever :

Penalty for contravention of rules or directions under sections 42, 43, 44, 47 and 48. (a) disobeys an order lawfully made under section 42, 43 or 44 ; or

(b) opposes or fails to conform to any direction given by the police under section 47 ; or

(c) opposes or disobeys any rule made or direction given by the police under section 48 ; or

S. 63 (d) and S. 65 (b).—The word " or " ought apparently to have been added at the end of each of these clauses.

(d) contravenes any condition of a license granted under clause (b) of the said section ; or

(e) abets the commission of any offence under clause (a), (b), (c) or (d);

shall be punished with fine which may extend to two hundred rupees.

69. Whoever contravenes or abets the contravention of any regulation made under section 45 shall be punished with imprisonment which may extend to three months, or with fine which may extend to two hundred rupees, or with both.

Penalty for contravention of a regulation made under section 45.

70. Whoever opposes or disobeys any direction given by a Magistrate of a District or a Sub-divisional Magistrate under section 46 or abets opposition to, or disobedience of, any such direction, shall be punished with imprisonment which may extend to one month, or with fine which may extend to one hundred rupees, or with both.

Penalty for contravention of direction given under section 46.

71. Whoever opposes or fails forthwith to comply with any reasonable direction given by a Magistrate or a police officer under section 54, or abets opposition thereto or failure to comply therewith, shall be punished with imprisonment which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Penalty for opposing or not complying with direction given under section 54.

72. Offences against this Act when the accused person or any one of the accused persons is a police officer above the rank of a constable, shall not be cognizable by a Magistrate below the Second Class.

Jurisdiction when offender is a police officer above the rank of constable.

73. It shall not, except in obedience to a rule or order made by Government or by the Magistrate of the District, be incumbent on the police to prosecute for an offence punishable under section 61, 62, 65, 67, 68, 69, or 70, when such offence has not occasioned serious mischief and has been promptly desisted from on warning given.

Prosecution for certain offences against the Act to be in the discretion of the police.

74. Nothing in this Act shall be construed to prevent any person from being prosecuted and punished under any other enactment for any offence made punishable by this Act or from being prosecuted and punished under this Act for an offence punishable under any other enactment: Provided that all such cases shall be subject to the provisions of Section 403 of the Code of Criminal Procedure.

Prosecution for offences under other enactments, not affected by the Act.

CHAPTER VII.—MISCELLANEOUS.

75. All sums paid for the service of process by police officers and all rewards, forfeitures and penalties or shares thereof which are by law payable to police officers as informers, shall, except as hereinafter in this section provided, be credited to Government: Provided that, with the sanction of Government, or under any rule made by Government in that behalf, the whole or any portion of any such reward, forfeiture or penalty may for special services be paid to a police officer or be divided amongst two or more police officers.

76. Any Magistrate of a District may delegate to the District Superintendent any authority which such Magistrate himself possesses for police purposes over any village police officer, and may withdraw such authority.

District Magistrate's authority over village police officers may be delegated to District Superintendent, and may be withdrawn.

77. (1) No municipal or other local rates shall be payable by Government on account of the occupation or use of any house or place by members of the police force for the convenient performance of their duties.

No municipal or other rates to be payable by Government on police buildings.

(2) It shall be the duty of a municipality within the limits of which a police force is stationed for the service of such municipality in preserving the peace, public order and safety and preventing crime, to provide on the requisition of Government such accommodation for the police so employed as shall be reasonably necessary or such portion thereof as to Government shall seem just and expedient.

Municipalities may be required to provide accommodation for the police.

(3) The provision of such accommodation or other fulfilment of the requirements of this section shall be deemed a purpose of the Bombay District Municipal Acts of 1873 and 1884.

Provision of such accommodation to be a purpose of the Bombay District Municipal Acts.

78. Any order or notification published or issued by Government or by a magistrate or officer under any provision of this Act, and the due publication and issue thereof may be proved by the production of a copy thereof in the *Bombay Government Gazette*, or of a copy thereof signed by such magistrate or officer and by him certified to be a true copy of an original published and issued according to the provisions of the section of this Act applicable thereto.

Method of proving orders and notifications issued under this Act.

79. No rule, order, direction, adjudication, inquiry or notification made or published, and no act done under any provision herein contained or in substantial conformity to the same, shall be deemed illegal, void, invalid or insufficient for any defect of form or publication or any irregularity of procedure.

Rules and orders not to be deemed invalid on account of defect of form or irregularity in procedure.

form or publication or any irregularity of procedure.

80. (1) No commissioner, magistrate or police officer shall be liable to any penalty or to payment of damages on account of any act done in good faith in pursuance or intended pursuance of any duty imposed or any authority conferred on him by any provision of this Act or of any rule, order or direction lawfully made or given thereunder.

No commissioner, magistrate or police officer to be liable to penalty or damages for act done in good faith in pursuance of duty.

direction lawfully made or given thereunder.

(2) No public servant or person duly appointed or authorized shall be liable as aforesaid for giving effect in good faith to any such order or direction issued with apparent authority by Government or by a person empowered in that behalf under this Act or any rule made under any provision thereof.

No public servant liable as aforesaid for giving effect in good faith to any rule, order or direction issued with apparent authority.

liable as aforesaid for giving effect in good faith to any such order or direction issued with apparent authority by Government or by a person empowered in that behalf under this Act or any rule made under any provision thereof.

(3) In any case of an alleged offence by a magistrate, police officer or other person, or of a wrong alleged to have been done by such magistrate, police officer or other person, by any act done under colour or in excess of any such duty or authority as aforesaid, or wherein it shall appear to the Court that the offence or wrong if committed or done was of the character aforesaid, the prosecution or suit shall not be entertained, or shall be dismissed, if instituted more than six months after the date of the act complained of.

Suits or prosecutions in respect of acts done under colour of duty as aforesaid not to be entertained or to be dismissed if not instituted within six months.

other person, or of a wrong alleged to have been done by such magistrate, police officer or other person, by any act done under colour or in excess of any such duty or authority as aforesaid, or wherein it shall appear to the

Court that the offence or wrong if committed or done was of the character aforesaid, the prosecution or suit shall not be entertained, or shall be dismissed, if instituted more than six months after the date of the act complained of.

(4) In the case of an intended suit on account of such a wrong as aforesaid, the person intending to sue shall be bound to give to the alleged wrong-doer one month's notice at least of the intended suit with a sufficient description of the wrong complained of, failing which such suit shall be dismissed.

In suits as aforesaid one month's notice of suit to be given with sufficient description of wrong complained of.

said, the person intending to sue shall be bound to give to the alleged wrong-doer one month's notice at least of the intended suit with a sufficient description of the wrong complained of,

failing which such suit shall be dismissed.

(5) The plaint shall set forth that a notice as aforesaid has been served on the defendant and the date of such service and shall state whether any and if any what tender of amends has been made by the defendant. A copy of the said notice shall be annexed to the plaint endorsed or accompanied with a declaration by the plaintiff of the time and manner of service thereof.

Plaint to set forth service of notice and tender of amends.

on the defendant and the date of such service and shall state whether any and if any what tender of amends has been made by the defendant.

A copy of the said notice shall be annexed to the plaint endorsed or accompanied with a declaration by the plaintiff of the time and manner of service thereof.

S. 80 (4).—See *Kirby v. Simpson and Taylor v. Nesfield*, 23, L. J. Rep. (N. S.) M. C. 165, 169, and Cr. Rg. 22nd August, 1889.

81. (1) In the case of any rule or order made by Government under an authority conferred by this Act and requiring the public or a particular class of persons to perform some duty or act or to conduct or order themselves or those under their control in a manner therein described, it shall be competent to any person interested to apply to Government by a memorial given to a Secretary to Government to annul, reverse, or alter the rule or order aforesaid on the ground of its being unlawful, oppressive or unreasonable.

(2) After such an application as aforesaid and the rejection thereof wholly or in part, or after the lapse of four months without an answer to such application or a decision thereon published by Government, it shall be competent to the person interested and deeming the rule or order contrary to law to institute a suit against Government in the District Court of the District wherein the rule or order operates, for a declaration that the rule or order is unlawful either wholly or in part. The decision in such suit shall be subject to appeal; and a rule or order finally adjudged to be unlawful shall by Government be annulled or reversed or so altered as to make it conformable to law.

82. Nothing in this Act shall affect any of the provisions of the Police Act, 1888, or of the Municipal Taxation Act, 1881. xvi/95-22 (C)
and P. 11

Saving of certain Acts.

SCHEDULE A.

(SEE SECTION 2.)

Enactments repealed.

Number and year of enactment.	Extent of repeal.	Number and year of enactment.	Extent of repeal.
Bombay Regulation No. XII of 1827.	So much of clauses 1, 6, 7 and 8 of section 19 as has not already been repealed.	Bombay Act. III. of 1886.	So much of schedule B as relates to clauses 1, 6, 7 and 8 of section 19 of Regulation XII of 1827 and to any section of Bombay Act VII. of 1867, except section 34.
Bombay Act VII of 1867.	The whole Act, except sections 33 and 34.		

Sch. A.—The titles or subjects of the enactments repealed are omitted.

SCHEDULE B.
(SEE SECTION 11.)

Form of Certificate for Police Officer below the grade of Inspector.



A. B. has been appointed to the Police of the district of _____ and is vested with the powers, functions and privileges of a Police Officer under the Bombay District Police Act, 1890.

Bombay Act No. V. of 1890.

PUBLISHED BY THE GOVERNOR OF BOMBAY ON THE 15TH JANUARY, 1891.

The Bombay Municipal Servants Act.

WHEREAS it is expedient to make better provision in the City of Bombay and elsewhere for the enforcement of regulations regarding certain classes of municipal servants whose functions intimately concern the public health or safety, and regarding the duties, withdrawal from duty, and leave of such servants; It is enacted as follows:—

Short title.

1. (1) This Act may be cited as "The Bombay Municipal Servants Act."

Commencement and extent.

(2) It shall come into force in the City of Bombay at once.

(3) The Governor in Council may, by notification, extend all or any of its provisions, on and after a day not less than two months after the date of such notification, to any municipal district in the Bombay Presidency.

He may also cancel or vary such notification consistently with the provisions of this Act.

Interpretation.

2. (1) Unless there be something repugnant in the subject or context, all words used in this Act shall have respectively the meanings assigned to them in the City of Bombay Municipal Act, 1888.

(2) This Act shall, in so far as it affects the City of Bombay, be read with the City of Bombay Municipal Act, 1888, and, in so far as it affects any other part of the Presidency of Bombay, shall be read with the Bombay District Municipal Acts, 1873 and 1884.

Act to be read with Municipal Acts in force.

Conditions as to resignation,
withdrawal and absence from
specified duties.

3. (1) Any municipal officer, servant or other person employed by or on behalf of the Corporation or a Municipality to perform any of the duties specified in the Schedule, who :

(a) without the written permission, in the City of Bombay of the Commissioner or a person by him deputed in that behalf and elsewhere of the officer authorized by the Municipality to give such permission, resigns his office without at least two months' notice given in writing to the Commissioner or person by him deputed, or to such officer, or withdraws or absents himself from the duties thereof, except in case of illness or accident disqualifying him for the discharge of such duties or other reason accepted as sufficient by such Commissioner or person by him deputed, or such officer ; or

(b) is guilty of any wilful breach or neglect of any provision of law or of any rule or order which,
Neglect or breach of duty. as such municipal officer, servant or other person employed by or on behalf of the Corporation or a Municipality, it is his duty to observe or obey ; or

(c) who abets an offence under clause (a) or clause (b) ;

shall be liable to forfeit his pay accruing due under a current term of service, and arrears of pay due for a term of not more than one month, and, in addition to such forfeiture and any other penalty which may be imposed on him under any enactment or rule for the time being in force, shall be liable, on conviction by a Magistrate, to imprisonment which may extend to three months, or to fine, or to both imprisonment and fine :

Provided that if any such officer, servant or other person produces a certificate signed by the medical officer appointed in the City of Bombay by the Commissioner, and elsewhere by the Municipality in this behalf, of a present incapacity to perform his duties which will probably endure for a month or more, the necessary permission to resign shall forthwith be granted.

Provided further that no fee shall be taken from a person on account of such certificate as aforesaid or of examination in connection therewith.

(2) The provisions of clauses (a) and (b) of sub-section (1) shall not apply to persons at the date of the passing of this Act in the employment of the Corporation or of a Municipality until the lapse of two months from such date.

Power to dispense with two months' notice or with services after tender of resignation.

4. (1) The Commissioner or officer authorized by the Municipality under section 3 (a), may :

- (a) at his discretion, accept any resignation to take effect at a time less than two months from the date thereof ; or
- (b) at any time after any municipal officer, servant or other person employed as aforesaid, has tendered his resignation, dispense with the services of such officer, servant or person.

(2) Any such officer, servant or other person whose services are dispensed with under sub-section 1, clause (b), shall, subject to any agreement in writing previously made between him and the Corporation or Municipality or its representative, be entitled, in addition to any wages which he may have earned at the date of tendering his resignation, to 15 days' wages or to wages for such period longer than 15 days, as his services may, after such tender of resignation, have been retained by the officer authorized in that behalf.

5. (1) It shall be lawful for the Governor in Council, on the request of the Corporation or of a Municipality, from time to time, by notification, to declare that from a date to be fixed therein, which shall not be less than two months from the date thereof, any specified class of duties which concern the public health or safety, shall be deemed to be included in the Schedule to this Act, and from the date fixed on that behalf in such notification the provisions of section 3 shall apply to all persons employed by, or on behalf of, the Corporation or a Municipality to perform any duty of the class so specified in such notification.

(2) The Governor in Council may withdraw such notification and may, from time to time, cancel or vary the same consistently with the preceding clause and with the other provisions of this Act, and may also limit the operation of any notification to any Municipality or place wherein this Act is in operation.

6. Every person employed by or on behalf of the Corporation or a Municipality to perform any of the duties set forth in the Schedule, shall, on entering the service, and every person now so employed shall forthwith, receive gratis, and shall at any time thereafter, on payment of one anna, be entitled to receive in the City of Bombay from the Municipal Commissioner for the City of Bombay, and elsewhere from the President of a Municipality, a copy of this Act and of the notifications issued thereunder, applicable to such person or to the class to which he belongs, in the English, Marathi, Gujarati, Canarese or Sindhi language.

Copies of Act to be supplied at nominal price to employes.

SCHEDULE.

(Vide Section 3.)

Duties which render the provisions of section 3 applicable to the persons employed by, or on behalf of, the Corporation or a Municipality to perform them.

Class I.—Duties connected with the public health :

- (a) Scavenging or cleansing streets or premises,
- (b) cleansing or flushing drains,
- (c) removing or disposing of excrementitious or polluted matter from houses, latrines, privies, urinals, or cess-pools,
- (d) removing carcasses,
- (e) preventing nuisances generally.

Class II.—Duties connected with the public safety :

Duties of

- (a) members of a fire-brigade,
- (b) persons, however designated, employed on, or in connection with, the maintenance or service of any municipal water-work, drain, pumping station or fire hydrant, including :
 - (1) inspectors,
 - (2) sub-inspectors,
 - (3) foremen,
 - (4) mechanics,
 - (5) drivers,
 - (6) watchmen,
 - (7) labourers,
 - (8) workmen,
- (c) lamp-lighters.

APPENDIX.

Notification by the Government of Bombay, General Department, dated the 31st August 1887, Bombay Government Gazette, 1887, Part I, page 755.

No. 2597.—The following Notification by the Government of India is re-published :—

"LEGISLATIVE DEPARTMENT.

Simla, the 25th August 1887.

No. 24.—Whereas by Resolution passed by the Secretary of State for India in Council the provisions of the 33rd of Vic., Chap. 3, Sec. 1, were declared to be, from and after the 9th November 1886, applicable to the Settlement of Aden and its dependencies (for the time being), inclusive of the villages of Shaikh Othman, Imad and Hiswah, the island of Perim and Little Aden;

And whereas the Governor of Bombay in Council has proposed to the Governor General in Council a draft of the following Regulation, together with the reasons for proposing the same ;

And whereas the Governor General in Council has taken the draft and reasons into consideration, and has approved of the draft, and the same has received the Governor General's assent on the 23rd day of August, 1887;

In pursuance of the direction contained in the said section, the said Regulation is now published in the Gazette of India:—

REGULATION No. XI. OF 1887.

A Regulation to place restrictions on the entry of Pilgrims and other Indigent Persons into Aden.

Whereas it is expedient to place restrictions on the entry of pilgrims and other indigent persons into Aden ; It is hereby enacted as follows:—

Title and commencement. 1. (1) This Regulation may be called the Aden Pilgrims and Paupers Regulation, 1887; and

(2) It shall come into force at once.

Definitions.

2. In this Regulation—

(1) 'Aden' means the Settlement of Aden and its dependencies for the time being, inclusive of the villages of Shaikh Othman, Imad and Hiswah, the island of Perim and Little Aden ;

(2) 'pilgrim' means a person proceeding to or returning from a pilgrimage to the Hadjaz ;

(3) 'prescribed' means prescribed by a rule under this Regulation; and

(4) 'Resident' means the Political Resident at Aden.

PART I.

PILGRIMS.

3. A pilgrim shall, on arriving at Aden by land or by sea, proceed forthwith to a prescribed place, and shall not, without the permission in writing of the Resident, or of an officer appointed by the Resident in this behalf, leave the limits of the prescribed place except for the purpose of going directly on board ship.

Power to Resident to make rules. 4. The Resident may from time to time make rules—

(a) fixing places for the accommodation of pilgrims and determining the limits thereof;

(b) providing for the sanitary regulation of those places;

(c) fixing fees to be paid by pilgrims for accommodation thereat; and

(d) generally for carrying out the purposes of this Part.

5. If a pilgrim contravenes either of the provisions of section 3, or any provision of a rule under section 4, he shall be punished with fine which may extend to one hundred rupees.

Penalties.

6. If a prescribed fee is not paid at the prescribed time, it may be recovered, on application to a Magistrate, by the distress and sale of any moveable property belonging to the defaulter.

Recovery of fees.

PART II.

INDIGENT PERSONS.

7. (1) The Resident, with the previous sanction of the Governor of Bombay in Council, may, from time to time, by notification, prohibit, from a date specified in the notification, and either absolutely or subject to conditions, the conveyance to and landing at Aden of indigent persons, whether pilgrims or not, being natives of Asia or Africa.

Power to prohibit landing of indigent persons.

S. 7.—The following Notification is published at G. G. 1888, p. 657.

In exercise of the power conferred by Section 7 of the Aden Pilgrims and Paupers Regulation, 1887, the Political Resident at Aden, with the previous sanction of his Excellency the Governor of Bombay in Council, hereby prohibits, with effect on and from the 1st day of October, 1888—

(a) the conveyance to Aden by any Ship-master or other person from any port or place and in any vessel or means of conveyance whatever, of any indigent person;

(b) the landing at Aden of any indigent person from any vessel whatever;

(c) the rendering of aid by any Shipping-master or other person to any indigent person to land at Aden and the wilful permission of the landing of any such person at Aden on the part of any Shipping-master or other person.

This prohibition applies only to indigent persons, whether pilgrims or not, who are natives of Asia or Africa.

(2) A prohibition under this section shall continue in force for so long as the Resident with the concurrence of the Governor of Bombay in Council, considers it to be necessary for military, sanitary or other reasons.

(3) The notification of the prohibition shall be published in the Gazette of India and in the Bombay Government Gazette and in such other manner as the Resident thinks fit or as the Governor of Bombay in Council directs ; and the date specified therein shall, so far as circumstances appear to the Resident to admit, be so fixed that owners and masters of vessels which are in the habit of conveying passengers to Aden may have timely information of the contents of the notification.

8. (1) If any person knowingly contravenes a prohibition under the last foregoing section, or commits a breach of any condition to which the prohibition is subject, he shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees, or both.

(2) Where the owner or master of a vessel with or in relation to which an offence under sub-section (1) is alleged to have been committed is accused under that sub-section, the vessel may, by order of the Resident, be detained ; and, if the owner or master is adjudged to pay a fine for the offence, the Court may, in addition to any other process for compelling payment, direct the levy of the fine by distress and sale of the vessel, and the tackle, apparel and furniture thereof, or so much thereof as is necessary.

PART III.

SUPPLEMENTAL PROVISION.

9. If in any case a question arises as to the applicability of this Regulation to a person as a pilgrim or an indigent person a statement in writing by the Resident, or by an officer appointed by the Resident in this behalf, that the person is or was believed to be a pilgrim or an indigent person, as the case may be, shall be conclusive proof that this Regulation is or was applicable to him as such.

(Signed) S. HARVEY JAMES,

Offg. Secretary to the Government of India.

By order of His Excellency the Right Honourable the Governor in Council,

T. D. MACKENZIE,
Acting Chief Secretary to Government.

ADDITIONAL NOTES.

Act X. of 1887.

S. 20.—See G. G. 1889, p. 227.

S. 53.—See G. G. 1889, p. 228.

S. 55.—See G. G. 1889, p. 235.

S. 56.—See G. G. 1889, p. 235.

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S. 3.—Rules framed under this section by the Karachi Municipal and Cantonment Committees are published at G. G. 1889, p. 403.

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S. 31.—Rules for Aden are published at G. G. 1889, p. 272.

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At p. 5.

Ss. 7 and 9.—These sections are repealed by Act XII. of 1891.

At p. 16.

S. 15.—A suit for the recovery of damages for the use and occupation of land (*i. e.*, for mesne profits) is cognizable. I. L. R. XVII. Calc. 541. Followed in Second Appeal 507 of 1889. B. H. C. 17th July, 1890.

A suit to recover money as payable to the plaintiff under an award which was contested is cognizable. I. L. R. XIII. Mad. 344.

A suit for the recovery of damages for the forcible cutting and carrying away of grass is cognizable. I. L. R. XVII. Calc. 707.

A suit to recover a sum of money alleged to have been illegally exacted under the order of the Revenue authorities by defendant from plaintiff as *thal* rent for a certain *dhara* holding is cognizable. P. J. 1890, p. 370.

Costs incurred in defending a criminal prosecution can only be recovered as damages in a suit for malicious prosecution. Such a suit is excluded from the jurisdiction of a Small Cause Court. I. L. R. XIV. Bom. 100.

A suit by one tenant in common against another to recover rent received by the latter is cognizable, being a suit for money had and received on account of the plaintiff's share, and not a suit for profits of immoveable property as contemplated by cl. 31 of Sch. II. P. J. 1890, p. 255.

A suit to recover a share of assessment of lands payable by the defendant but collected from the plaintiff is cognizable. I. L. R. XII. Mad. 349.

At p. 17.

* S. 17. (2).—The Calcutta High Court, differing from the Madras High Court (I. L. R. XIII. Mad. 178), has held that it is a condition precedent to the granting of a new trial that the applicant should either deposit in court the decretal amount or give security. I. L. R. XVIII. Calc. 83.

At p. 19.

S. 27.—There is no appeal from an order made by a Subordinate Judge in execution of his own decree in a Small Cause Court jurisdiction under S. 244 of the Civil Procedure Code. P. J. 1889, p. 278.

At p. 20.

S. 33.—This section precludes a Subordinate Judge invested with Small Cause Court powers from entertaining a counter claim beyond the pecuniary limits of his Small Cause Court jurisdiction. I. L. R. XIV. Bom. 371.

At p. 22.

Art. (3).—A suit brought against the Secretary of State for compensation for damages done to an oil mill by the officers of the Nalhati State Railway was held to be not cognizable. I. L. R. XVII. Calc. 290.

At p. 27.

S. 6.—See G. G. 1890, p. 358.

-At p. 31.

S. 20.—See G. G. 1889, p. 227.

At p. 38.

S. 53.—See G. G. 1889, p. 228.

At p. 39.

S. 53 (2).—See G. G. 1890, p. 860.

At p. 40.

S. 55.—See G. G. 1889, pp. 235, 485.

S. 56.—See G. G. 1889, p. 235.

Act No. XI.—“The Indian Railway Act, 1890,” must now be read in this Act for “the Indian Railway Act, 1879.” See S. 2 (3) of Act IX. of 1890. S. 150 of that Act amends the preamble of this Act by substituting the words “should apply in its entirety to that part of the Sindh-Pishin section of the North-Western Railway which lies beyond the Province of Sindh” for the portion which begins with the words “so far as it applies” and ends with the words “in its entirety.”

At p. 43.

S. 4 (1).—For rules see G. G. 1889, p. 452.

At p. 46.

S. 1 (1).—The 15th October 1887 is the date appointed. See Gazette of India, 1887, p. 500.

At p. 48.

S. 4.—For rules see Gazette of India, 1887, p. 551.

At p. 68.

S. 3.—Rules have been confirmed by Government for Karachi, Jacobabad, Ahmedabad, Larkhana, Kambar, Ratodero, Broach and Ancleswar. See G. G. 1890, p. 1020. And for Sukkur, Shikarpur and Garhi Yasin. See *ib.* 1891, p. 292.

At p. 69.

S. 4.—The provisions of S. 3 are declared to apply to hares. G. G. 1890, p. 1019. See also *ib.* 1891, p. 239.

At p. 74.

S. 1.—For extensions of the Act, see G. G. 1889, p. 492; *ib.* 1891, p. 239.

At p. 79.

S. 19.—See G. G. 1890, p. 531.

At p. 81.

S. 30.—See G. G. 1889, p. 535.

And to the note to S. 31 add—

p. 552 and p. 1064; *ib.* 1891, p. 159 and p. 239; for Aden see G. G. 1889, p. 272; *ib.* 1891, p. 160; for Karachi see G. G. 1889, p. 552; *ib.* 1891, p. 160, and p. 239; for other places see G. G. 1889, p. 797; *ib.* 1891, p. 160.

At p. 83.

S. 1, cl. 1.—The Act is extended to the Settlement of Aden and to its dependencies, inclusive of the villages of Shaik Othman, Imad and Hiswa, the island of Perim and Little Aden. G. G. 1890, p. 1016.

S. 3.—By Bombay Act I. of 1890, the following definitions are inserted before the definition of "common gaming house":

"Gaming" to include wagering.

"In this Act the word "gaming," whenever it occurs, shall include wagering.

"Instruments of gaming" defined.

"In this Act the expression "instruments of gaming" includes any article used as a subject or means of gaming."

At p. 84.

S. 6.—The power conferred on a Local Government is delegated to the Commissioner in Sind. G. G. 1890, p. 158.

At p. 90.

S. 6.—In the proviso for all after the words “in such village appertains” the following is substituted by Bombay Act III. of 1890 :—

“to one or more than one of such families to the exclusion of the remainder of such families and shall vest in such order as he may thereby determine, and every such declaration shall be conclusive evidence of the rights thereby affirmed.”

At p. 91.

S. 14.—The following section is substituted by Bombay Act III. of 1890 :—

“In every village in which the Governor in Council makes a declaration under section 6 the right to the office of patel shall vest to the exclusion of all other matádárs in the representative of each of the families whose rights are thereby declared in such order as may therein be determined.”

At p. 108.

S. 4 (c).—See G. G. 1889, p. 1072.

At p. 110.

S. 11 (2).—See G. G. 1889, p. 822.

At p. 122.

S. 49.—See G. G. 1890, p. 510.

At p. 150.

S. 5 of Act VIII., the whole of Act IX., and S. 4 of Act X. are repealed by Act XII. of 1891.

Act No. X.—Sections 1 and 3 are extended to the Province of Sind under S. 3 of Act XIV. of 1874. G. G. 1889, p. 112.

So much of this Act as amends the Code of Civil Procedure and repeals Act VIII. of 1880 is applied to the Cantonment of Deesa. G. G. 1889, p. 420.

At p. 215.

Chap. IV.—See Bombay Act V. of 1890, which is to be read with this Act.

At p. 342.

S. 491 (u).—See G. G. 1890, p. 118.

At p. 403.

S. 52.—Pilotage by-laws approved by Government are published at G. G. 1890, p. 743.

At p. 435.

S. 1 (3).—The 15th June, 1889, is the day appointed. G. G. 1889, p. 530.

Ss. 3 and 5.—See G. G. 1889, p. 530; *ib.* 1890, p. 551.

At p. 446.

S. 16.—See G. G. 1890, p. 1241.

At p. 455.

S. 4.—This section peremptorily forbids any court from passing a decree, even by consent, against a debtor of a deceased person except on the production by the plaintiff of a probate, letters of administration or certificate. P. J. 1890, p. 254.

This section does not apply to a joint Hindu family. The word person may include a "body of individuals" such as constitute a Hindu family, but such a body cannot be said to be "deceased" because one or more of its members die. P. J. 1890, p. 253.

Clause (b) of this section does not apply to a decree-holder who, on the death of his joint decree-holder, became by survivorship the owner of the decree and the sole plaintiff on the record. P. J. 1890, p. 362.

Clause (b) of this section does not apply to applications in proceedings in execution of a decree made before and pending at the time when the Act came into force (I. L. R. XV. Bom. 79); but it does apply to applications made subsequent to the passing of the Act in order to execute decrees passed before the Act came into operation. P. J. 1890, p. 202.

In a suit by surviving partners for the recovery of a partnership debt which became due during the life of a deceased partner, the representatives of such deceased partner are necessary parties, and the provisions of this section must be complied with in order that the suit may be properly constituted. I. L. R. XVIII. Calc. 86.

Where the defendants never became the debtors of the deceased person, it was held that a certificate was not required. P. J. 1891, p. 10.

At p. 457.

S. 7.—For form of notice see G. G. 1890, p. 336.

— cl. (3).—Ordinary questions which arise between the parties as to the genuineness or validity of a will do not fall within the requirements of this clause. P. J. 1891, p. 13.

— A joint certificate ought not to be granted. The Court should decide on the rival claims. P. J. 1891, p. 57.

At p. 463.

S. 26 (1).—See G. G. 1889, p. 795.

The Courts of all Subordinate Judges in the Presidency are invested with the functions of a District Court under the Act. G. G. 1890, p. 1072.

At p. 472.

S. 4 (1) (b).—The provisions of S. 31, clause (1), are specially extended to part of the Port of Aden. G. G. 1890, p. 1126.

At p. 473.

S. 6 (1) (a).—Act V. of 1891 substitutes for this clause the following :—

“(a) for regulating the time and hours at and during which, the speed at which, and the manner and conditions in and on which, vessels generally, or vessels of any class defined in the rules, may enter, leave or be moved in any port subject to this Act ;”

To the note to S. 6 add

and p. 1124.

At p. 499.

S. 6 (3).—For the words and figures “ Act XVIII. of 1888 [to amend the Cattle-trespass Act 1871],” the words and figures “ the Cattle-trespass Act, 1871,” are substituted by S. 11 of Act I. of 1891.

At p. 501.

For the present note substitute—
See Bombay Act IV. of 1890.

At p. 504.

For the present note substitute—
See Bombay Act IV. of 1890.

At p. 507.

Add to the present note—
and these rules are declared in force in the Cantonments of Secunderabad, Mhow, Neemuch and Deesa respectively, subject to the omission of a few words. G. G. 1890, p. 991.

At p. 508.

S. 28.—For extensions in the cases of Hyderabad and Karachi, see G. G. 1890, p. 1058 ; of Deolali, see *ib.* p. 1300 ; of Aden, see *ib.* p. 1331.

At p. 546.

S. 3 (1).—For appointment of officers, see G. G. 1890, p. 1109.

At p. 550.

S. 13.—For rules framed under this section, see G. G. 1890, p. 1104.

At p. 567.

S. 23.—The Commissioner in Sind and the Commissioners of the Northern, Central and Southern Divisions are the authorities respectively appointed. G. G. 1891, p. 155.

At p. 600.

Add to the first note—
p. 1020 and p. 1151.

At p. 632.

S. 9.—The places and officers directed are, in Bombay at the office of the Collector of Land Revenue, Customs and Opium, Bombay, and to the Collector of Land Revenue, Customs and Opium, Bombay, and elsewhere at the head quarter station of the Collector of the district in which the Press issuing the book is situated, and to the Collector of that district. G. G. 1891, p. 254. New rules under S. 20 of Act XXV. of 1867 are published at *ib.* p. 255, and p. 327.

At p. 634,

S. 1 (2).—The whole of the rest of this Act is extended to the town of Dhulia, to the City of Poona and to the Cantonments of Poona and Kirkee. See G. G. 1891, p. 238.

At p. 635,

S. 6 (2).—See G. G. 1891, p. 238.

At p. 648,

S. 4.—The Political Resident at Aden is appointed to be Commissioner of Salt Revenue, and the Assistant Political Resident for the time being in charge of the Local Salt Department to be Collector of Salt Revenue for the Settlement of Aden and its dependencies. G. G. 1891, p. 234; the Commissioner in Sind is appointed to be *ex-officio* Commissioner of Salt Revenue, and the Collector and Assistant Collector of Customs for the time being, respectively, *ex-officio* Collector and Assistant Collector of Salt Revenue for the Province of Sind. G. G. 1891, p. 279.

At p. 650,

S. 10 (2).—The power vested in the Governor in Council by sub-section (1) is delegated to the Commissioner of Customs, Salt, Opium, and Abkari, G. G. 1891, p. 156; and to the Commissioner of Salt Revenue for the Settlement of Aden, *ib.* p. 234.

At p. 436.

S. 1 (2).—The words "subject to the provision of the last section of this Act" are repealed by Act IX. of 1891.

At p. 443.

S. 10 (e) (ii).—For the words "that place and the country in which it is situated are" the words "the country in which that place is situated is" are substituted by Act IX. of 1891.

At p. 614.

Chap. IX.—The Local Government has directed under S. 422 of the Code of Criminal Procedure that in every case in which an appeal is made by a person convicted of an offence under this Act or under any rule made thereunder, the District Magistrate, on receiving notice of such appeal, shall immediately on receipt communicate it with a copy of the grounds of appeal to the Railway Administration concerned. G. R. 1377 of the 6th March, 1891, J. D.

At p. 447.

S. 19.—This section and the words "*Transitory Provision*" prefixed to it are repealed by S. 2 of Act IX. of 1891. Section 4 of the same Act adds, after S. 18, the following sections:—

"19. For the purposes of section 12 of this Act, and clause (f) of section 18 of the Sea Customs Act, 1878, as amended by this Act, the Governor General in Council may, by notification in the *Gazette of India*, declare what classes of goods are included in the expression 'piece-goods, such as are ordinarily sold by length or by the piece.'

"20. (1) The Governor General in Council may make rules, for the purposes of this Act, to provide, with respect to any goods which purport or are alleged to be of uniform number, quantity, measure, gauge or weight, for the number of samples to be selected and tested and for the selection of the samples.

(2) With respect to any goods for the selection and testing of samples of which provision is not made in any rules for the time being in force under sub-section (1), the Court or officer of customs, as the case may be, having occasion to ascertain the number, quantity, measure, gauge or weight of the goods shall, by order in writing, determine the number of samples to be selected and tested and the manner in which the samples are to be selected.

(3) The average of the results of the testing in pursuance of rules under sub-section (1) or of an order under sub-section (2) shall be *prima facie* evidence of the number, quantity, measure, gauge or weight as the case may be, of the goods.

(4) If a person having any claim to, or in relation to, any goods of which samples have been selected and tested in pursuance of rules under sub-section (1) or of an order under sub-section (2) desires that any further samples of the goods be selected and tested, they shall, on his written application and on the payment in advance by him to the Court or officer of customs, as the case may be, of such sums for defraying the cost of the further selection and testing as the Court or officer may from time to time require, be selected and tested to such extent as may be permitted by rules to be made by the Governor General in Council in this behalf or as, in the case of goods with respect to which provision is not made in such rules, the Court or officer of customs may determine in the circumstances to be reasonable, the samples being selected in manner prescribed under sub-section (1), or in sub-section (2), as the case may be.

(5) The average of the results of the testing referred to in sub-section (3) and of the further testing under sub-section (4) shall be conclusive proof of the number, quantity, measure, gauge or weight, as the case may be, of the goods.

(6) Rules under this section shall be made after previous publication.

"21. An officer of the Government whose duty it is to take part in the enforcement of this Act shall not be compelled in any Court to say whence he got any information as to the commission of any offence against this Act.

"22. If any person, being within British India, abets the commission, without British India, of any act which, if committed in British India, would under this Act, or under any section of that part of Chapter XVIII. of the Indian Penal Code which relates to trade, property and other marks, be an offence, he may be tried for such abetment in any place in British India in which he may be found, and be punished therefor with the punishment to which he would be liable if he had himself committed in that place the act which he abetted."

Ss. 19, 20.—Rules and orders are published at G. G. 1891, p. 329.

Act No. VI.—S. 9 (2), S. 18 (1), and S. 21 are repealed by Act XII. of 1891.

At p. 9.

S. 10.—This section is repealed by Act XII. of 1891.

At p. 10.

Act VIII.—This Act is repealed by Act XII. of 1891.

At p. 12.

Act IX.—S. 2 down to the word "But", in S. 17 the words "as amended by this Act", and Schedule I are repealed by Act XII. of 1891.

At p. 22.

Art. (13).—A suit (such as that reported at I. L. R. XIV. Bom. 167) brought by persons, claiming to be entitled as hereditary joshis to perform religious ceremonies, to recover the fees which would have been payable to them if they had been employed is not cognizable. Application 208 of 1890; B. H. C. 21st April, 1891.

At p. 102.

S. 2.—See the notifications published at G. G. 1891, pp. 255, 256.

— Act XII. of 1891 substitutes for "the Bombay District Police Act 1867", the words "or the corresponding law for the time being in force in the territories administered by the Governor of Bombay in Council". The law now in force is Bombay Act IV. of 1890.

At p. 132.

Act VI.—S. 9 is repealed by Act XII. of 1891.

Act VII.—Ss. 4, 25, 29, 41, 49 (1), 50, 52 (1), 56, 57, 66 (2) and the words "the Code of Civil Procedure" in S. 65 (3) are repealed by Act XII. of 1891.

At p. 145.

S. 49.—Act XII. of 1891 which repeals (1) substitutes in (2) for "the same section" "section 562".

S. 52.—Act XII. of 1891, which repeals (1) substitutes in (2) for "the same section" "section 566".

At p. 156.

Act XIV. is repealed by Act XII. of 1891.

P. 496.

Add to the note to Act XII.—

It is repealed by Act XII. of 1891.

Add to the notes—

Act XIII.—The figures “1891” in Ss. 3, 21, and 26, wherever they occur, are repealed by Act XII. of 1891.

At p. 503.

S. 19.—Act XII. of 1891 substitutes for “shall not be imposed under section 17 of this Act in the cantonment” the words “shall not be leviable in the cantonment in pursuance of a notification under section 17 of this Act”.

At p. 515.

S. 3.—This section is repealed by Act XII. of 1891.

At p. 536.

S. 11 (2).—This sub-section is repealed by Act XII. of 1891.

At p. 538.

Act III.—Ss. 3, 4 (1), 5, 16, 17 (1), and 18 are repealed by Act XII., and Ss. 9, 10, and 11 by Act XIII., of 1891.

At p. 539.

S. 4.—Act XII. of 1891 which repeals (1) substitutes in (2) for “the same section” “section 11 of the said Act”.

At p. 541.

S. 17.—Act XII. of 1891 which repeals (1) substitutes in (2) for “the same section” “section 13 of the said Act”.

P. 593.

Substitute for the note to S. 22—

See G. G. 1891, p. 277.

At p. 631.

Act X.—Ss. 1, 2, and 7 are repealed by Act XII. of 1891.

At p. 642.

S. 6.—This section is repealed by Act XII. of 1891.

At p. 665.

S. 58.—Rules with reference to the Shaikh Othman Salt Work at Aden are published at G. G. 1891, p. 278.

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